

CHAPTER 87

FOOD STAMP MANUAL

Authority

N.J.S.A. 30:4B-2, 7 CFR Parts 271, 272, 273, 274, 275, and 278; and the Americans with Disabilities Act (P.L. 101-336).

Source and Effective Date

R.1994 d.42, effective December 21, 1993.
See: 25 N.J.R. 4697(b), 26 N.J.R. 377(a).

Executive Order No. 66(1978) Expiration Date

Chapter 87, Food Stamp Manual, expires on December 21, 1998.

Chapter Historical Note

Chapter 87, Food Stamp Manual, was filed as R.1969 d.22, effective December 3, 1969. See: 1 N.J.R. 14(a), 1 N.J.R. 30(b). A new Food Stamp Manual was adopted as R.1972 d.177, effective September 8, 1972. See: 4 N.J.R. 187(a), 4 N.J.R. 239(a). A new Manual was again adopted, as R.1975 d.350, effective January 1, 1976. See: 7 N.J.R. 363(b), 7 N.J.R. 567(d). The Manual was further replaced, by R.1979 d.29, effective March 1, 1979. See: 10 N.J.R. 537(b), 11 N.J.R. 76(a).

Pursuant to Executive Order No. 66(1978), Chapter 87 was readopted as R.1984 d.68, effective March 1, 1984. See: 15 N.J.R. 2134(b), 16 N.J.R. 550(a). Chapter 87 was again readopted, as R.1989 d.121, effective January 27, 1989. See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

Pursuant to Executive Order No. 66(1978), Chapter 87 was readopted as R.1994 d.42. See: Source and Effective Date. See, also, section annotations for specific rulemaking activity.

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APPENDIX A. FISCAL MANAGEMENT**SUBCHAPTER 1. GENERAL PROVISIONS****10:87-1.1 Purpose of the Food Stamp Program**

The Food Stamp Program is designed to promote the general welfare and to safeguard the health and well being of the population by raising the levels of nutrition among low-income households.

Case Notes

County welfare board's discretion is severely restricted by state and federal regulations. *Battaglia v. Union Cty. Welfare Bd.*, 88 N.J. 48, 438 A.2d 530 (1981) certiorari denied 102 S.Ct. 2045, 456 U.S. 965, 72 L.Ed.2d 490 (1982).

Recipients who illegally receive benefits under the Food Stamp Program are subject to both federal and state criminal sanctions. *Atty.Gen.F.O.1978, No. 2.*

The state and counties are obligated to investigate apparent instances of fraud committed by either employees or recipients of the Food Stamp Program, make demand for the repayment of food stamp coupons issued as a result of fraud or misrepresentation, make an administration determination as to whether the facts warrant referral of the matter to state or federal authorities for prosecution, and refer the matter to such authorities if appropriate. *Atty.Gen.F.O.1978, No. 2.*

10:87-1.2 Administration of the Program

(a) The Program is authorized by the U.S. Congress and regulated by the U.S. Department of Agriculture (USDA). In New Jersey, the county welfare agencies (CWAs) are responsible for certifying eligible households and arranging for coupon issuance outlets. Only persons employed by a CWA are legally empowered to enroll applicants in the program.

(b) Although the counties directly administer the Program, the State is ultimately responsible for ensuring that program operations conform with Federal laws and USDA regulations.

(c) The county administration of the Food Stamp Program is supported by a centralized computer management information system to comply with the requirement for keeping a uniform system of records and accounts throughout the State. CWAs have access to the management information system that performs routine clerical tasks, determines eligibility status, calculates the coupon allotment, produces food stamp Authorizations to Participate (ATPs), and management and fiscal reports. This automated system expedites implementation of policy changes, eliminates duplication of effort, and allows for efficient updating of information.

Amended by R.1989 d.121, effective February 21, 1989.
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

Case Notes

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).

10:87-1.3 Legal basis of the Program

Policies and procedures for the administration of the program are derived from the Food Stamp Act of 1977 (7 U.S.C. 2011-2029) and current USDA, Food and Nutrition Service (FNS), regulations and instructions (which are uniform nationwide).

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.

10:87-1.4 Program informational activities

(a) The Division of Public Welfare (DPW) will supply CWAs with posters and pamphlets concerning nutritional information, and, where available, explanations of Special Supplemental Food Program for Women, Infants and Children (WIC) and the Commodity Supplemental Food Program (CSFP) explanations. CWAs shall display the posters and make the pamphlets available at all food stamp and public assistance offices.

(b) CWAs shall inform participant and applicant households of their program rights and responsibilities. The information may be provided through whatever means DPW deems appropriate.

(c) All informational material shall be available in languages other than English as required by FNS bilingual guidelines (see 7 CFR 272.4(b)) and shall include a statement that the program is available to all without regard to race, color, sex, age, handicap, religious creed, national origin, or political belief.

As amended on an emergency basis, R.1981 d.398, eff. September 30, 1981 (oper. October 1, 1981), exp. November 30, 1981.

See: 13 N.J.R. 769(a).

Readopted, R.1981 d.517, eff. December 31, 1981.

See: 13 N.J.R. 769(a), 14 N.J.R. 103(a), 14 N.J.R. 208(b).

Old text concerning "outreach efforts" deleted are replaced with new text concerning "program informational activities".

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

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

Old text repealed and new text added.

10:87-1.5 Purpose of the New Jersey Food Stamp Manual

The purpose of this manual is to outline the policies and procedures applicable to the certification and/or recertification of those who apply for food stamps. The policies and procedures contained in this manual shall be used to determine eligibility criteria and issuance requirements for food stamp benefits for all qualified households regardless of their eligibility for other assistance programs.

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.

Case Notes

Regulations in N.J.A.C. 10:82 regarding loans inapplicable to Food Stamp dispute. In re: S.C., 6 N.J.A.R. 333 (1981).

10:87-1.6 The concept of reasonable certainty; situations not covered by the manual

(a) While this manual attempts to minimize discretionary action on the part of the certification worker, there will be situations which are not specifically covered by existing policy guidelines. In those cases the certification worker shall be expected to make a judgment, based on his or her experience and/or knowledge of the Program, which can be defended as both reasonable and prudent.

(b) In cases where the treatment of a situation is neither specifically nor generally addressed in this manual, the matter shall be referred to DPW for resolution.

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.

10:87-1.7 Assignment of manual

Copies of this manual shall be assigned to administrative and other staff working with applicants and recipients. Each staff member is expected to be thoroughly familiar with its contents so that policy and procedures may be consistently applied.

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

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

Deleted "staff", "to" and "in order".

10:87-1.8 Responsibility of manual holders

Each holder of the manual shall be responsible for maintaining a current and up-to-date manual. DPW shall issue revisions and changes as necessary; the manual holder shall insert new material and remove obsolete pages promptly.

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

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

Deleted "the Division of Public Welfare".

10:87-1.9 Retention of obsolete material

The CWA shall retain one copy of obsolete manual material for administrative purposes.

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

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

Deleted "the County Welfare agency".

10:87-1.10 Public access to the manual

(a) This manual is a public document and shall be made accessible in accordance with (b) through (h) below.

(b) Fair hearings: Specific policy material necessary for an applicant, recipient, and/or representative to determine whether or not a hearing should be requested, or to prepare for a hearing, shall be provided to such persons without charge.

(c) Libraries: All public and private libraries which have agreed to maintain the manual on a current up-to-date basis shall make a copy available to the public, subject to their own regulations.

(d) Legal services: Each county legal services office shall be furnished with a copy of this manual.

(e) Service organizations: Welfare, social service and other nonprofit organizations shall be furnished with a free copy of the manual upon receipt by DFD of an official, written request.

(f) Individuals: A current up-to-date copy of the manual, or any part of it, shall be available from DFD, at the cost of printing and mailing, to anyone who requests it in writing.

(g) Public examination: A current up-to-date copy of the manual will be maintained in each CWA for examination by members of the public during regular working hours.

(h) All supplementary State policy directives shall be sent to those who have been supplied with the manual. A mailing list shall be maintained by DFD for that purpose.

Amended by R.1989 d.121, effective February 21, 1989.
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

10:87-1.11 Policy of nondiscrimination

CWAs shall not discriminate against any applicant or participant in any aspect of program administration, including, but not limited to, the certification of households, the issuance of coupons, the conduct of fair hearings or any other program service, for reasons of age, race, color, sex, disability, religious creed, national origin or political belief.

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.1994 d.42, effective January 18, 1994.
See: 25 N.J.R. 4697(b), 26 N.J.R. 377(a).

10:87-1.12 Complaint procedures

(a) Persons who believe that they have been subject to discrimination as described in N.J.A.C. 10:87-1.11 may complain directly to USDA and/or to DFD. The CWA shall explain the complaint procedures and advise the individual(s) of their right to file a complaint.

(b) Time limit for filing a complaint: A complaint must be filed no later than 180 days from the date of alleged discrimination, unless the period is extended by USDA.

(c) CWA responsibility: The CWA shall accept all complaints of discrimination and forward them promptly to the Director of DFD who will in turn forward them to USDA.

(d) If a person alleges verbally that a discriminatory act has been committed and does not (or cannot) put it in writing, the CWA worker receiving the complaint shall do so. If possible, the following information shall be obtained from the complainant:

1. Identity of complainant: Name, address and telephone number or other means of contacting the persons alleging discrimination;
2. Identity of the sources of discrimination: Location and name of the organization or office and/or person(s) accused of discriminatory practices;
3. Nature of incident: The nature of the incident, action, or aspect of the program administration that led to the alleged discrimination;

4. Reason: The reasons for the alleged discrimination (i.e. age, race, color, sex, disability, religious creed, national origin or political belief);

5. Identity of others having knowledge of discrimination: Names, titles (if appropriate), and addresses of persons (other than the complainant) who may have knowledge of the discriminatory act(s);

6. Date: The date or dates on which the alleged discriminatory actions occurred.

(e) Incomplete complaints: Written complaints shall be forwarded to the Director of DFD even if the information in (d) above is not complete. Persons who file complaints shall be encouraged to provide this information to facilitate the investigation of the alleged discrimination and shall be advised that investigations by USDA will be conducted only if information specified in paragraphs (d)2, 3, and 4 above is provided.

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.1994 d.42, effective January 18, 1994.
See: 25 N.J.R. 4697(b), 26 N.J.R. 377(a).

10:87-1.13 Public Notification Plan

(a) The CWA shall publicize the procedure described in N.J.A.C. 10:87-1.12.

(b) Minority group contacts: At least once every fiscal year, the CWA shall advise local minority group organizations, in writing, that the Food Stamp Program is available to all eligible households on a nondiscriminatory basis and of the complaint procedures. If there are no minority group organizations in the county, the CWA shall contact minority ministers, teachers, and/or other community leaders in the county, informing them of this nondiscrimination policy.

(c) Records relating to the Public Notification Plan: The CWA shall maintain file copies of correspondence concerning public notification of nondiscrimination. These documents shall be available for inspection during audits and compliance reviews conducted by State and Federal offices.

(d) The CWA shall display a nondiscrimination poster (supplied by FNS and/or DEA) in all local food stamp certification offices.

(e) The CWA shall ensure that participants (and other low-income households) have access to information regarding their rights, nondiscrimination statutes and policies and complaint procedures, no later than 10 days from the date the information is requested.

(f) The CWA shall advise applicants for program participation that his or her application shall be processed without discrimination in accordance with N.J.A.C. 10:87-1.11.

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.

10:87-1.14 Confidentiality and disclosure of information

(a) Confidentiality of information: The CWA shall restrict the use or disclosure of information obtained from applicant or recipient households to persons directly connected with the administration or enforcement of the Food Stamp Program, AFDC, SSI, Medicaid, Child Support and Paternity program (CSP), Income Eligibility Verification System (IEVS), or with any other Federal or federally aided, means-tested assistance programs. The verification of immigration status of aliens applying for food stamp benefits will be accomplished through the Systematic Alien Verification for Entitlements (SAVE) Program and is subject to the same confidentiality safeguards afforded other programs listed herein.

(b) Disclosure of information: The CWA may release information concerning an applicant or recipient household in the following situations only:

1. Law enforcement agencies: Upon written requests, the CWA shall cooperate in furnishing information to Federal, State or local law enforcement agencies in any investigation which concerns a household or person fraudulently obtaining coupons or otherwise violating the statutory provisions of the Food Stamp Act and/or FNS and/or State regulations. The law enforcement agency must provide a written request which shall include the identity of the individual requesting the information and his or her authority to do so, the violation being investigated, and the identity of the person about whom the information is requested.

2. Judicial summons: Staff members shall provide such testimony as may be mandated by a court of competent jurisdiction in connection with administration and enforcement of the Food Stamp Program (see (a) above).

3. Waiver of confidentiality: Upon written request by the household, the household may waive its rights to confidentiality of information and the CWA shall make disclosure of information, but only to the extent specifically authorized by the waiver.

4. Client review: If there is a written request by a responsible member of the household, its currently authorized representative, or a person acting in its behalf to review materials in its case file, the material and information contained in the case file shall be made available during normal business hours.

i. Confidential information: The CWA may withhold confidential information, such as the names of individuals who have disclosed information about the household without the household's knowledge, or the nature or status of pending criminal prosecutions.

5. Fair hearings: Information and records shall be released to parties directly involved in a fair hearing procedure (see N.J.A.C. 10:87-8.6(a) and 10:87-8.15(a)).

6. Release of lists of names and addresses: The furnishing of any lists of names and/or addresses or both for purposes not directly related to the provisions of (a) above is specifically prohibited.

7. Quality control reviews: The disclosure of information in connection with the performance of a quality control review or State audit shall be permitted.

8. Parent Locator Service: The CWA shall make available, to the CSP's Parent Locator Service, food stamp case file information to assist the CSP program, under Title IV-D of the Social Security Act.

9. School officials: Households that provide a food stamp or AFDC case number on the school meal application are categorically eligible for free school meals. The CWA shall honor requests from school officials to verify Food Stamp Program participation for households applying for free school meals. The CWA shall not release any information with regard to the household beyond the verification of Food Stamp Program participation. Section 169 of the Food Stamp Application Privacy Act (P.L. 97-253) allows such information to be provided to officials verifying eligibility for free school meals.

10. Comptroller General's Office: The CWA shall furnish information to employees of the Comptroller General's Office of the United States for audit examination authorized by any other provisions of law.

Amended by R.1985 d.179, effective April 15, 1985.
See: 17 N.J.R. 166(a), 17 N.J.R. 968(b).

(b)8 added.

Amended by R.1985 d.475, effective September 16, 1985.
See: 17 N.J.R. 1377(b), 17 N.J.R. 2273(a).

Substantially amended.

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.1990 d.565, effective November 19, 1990.
See: 22 N.J.R. 2219(a), 22 N.J.R. 3486(a).

Specified that county welfare agencies are to release information to school districts for verification of eligibility for free school meal programs.

10:87-1.15 Public access to information

(a) Copies of the manual, supplementary directives issued for use in certifying applicant households, and food stamp fair hearing reports shall be readily available for public inspection in all CWA central food stamp offices.

(b) In addition, Federal food stamp statutes, FNS regulations, instructions, the State Plan of Operation, and a copy of this manual shall be readily available for public inspection during regular office hours in the central DEA office as well as the FNS Regional Office.

(c) DEA, at its option, may require other CWA offices within the State to maintain a copy of Federal statutes and FNS regulations.

As amended on an emergency basis, R.1981 d.398, eff. September 30, 1981 (oper. October 1, 1981) exp. November 30, 1981. See: 13 N.J.R. 769(a). Readopted, R.1981 d.517, eff. December 31, 1981. See: 13 N.J.R. 769(a), 14 N.J.R. 103(a).

(a): Deleted "the State Outreach Plan . . . coordinates".
 (b): Deleted "and" after "regulations" and inserted same after "instructions"; deleted "and the State Outreach reports".
 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.

10:87-1.16 Appeals

An applicant or recipient shall have the right to appeal any action or inaction concerning the Program on the part of the CWA that affects his or her household (see N.J.A.C. 10:87-8 concerning fair hearings).

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.

10:87-1.17 Suits against county

(a) The CWA shall notify the DEA immediately of any suit(s) filed by any person/organization against the CWA and/or DEA which involve(s) administration of the Food Stamp Program and shall furnish DEA with copies of the original pleadings and all subsequently filed pleadings.

(b) Failure to comply: If the CWA fails to comply with the provisions of (a) above and is ordered by a court to take actions which are determined by USDA to be inconsistent with the Food Stamp Act of 1977 and its FNS regulations or instructions, the CWA may be liable for the amount of coupons issued pursuant to the court order.

As amended on an emergency basis, R.1981 d.398, effective September 30, 1981 (Operative October 1, 1981), expires November 30, 1981. See: 13 N.J.R. 769(a).
 Readopted R.1981 d.517, effective December 31, 1981.
 See: 13 N.J.R. 769(a), 14 N.J.R. 103(a).

Deleted text of N.J.A.C. 10:87-1.17 concerning "outreach" and recodified N.J.A.C. 10:87-1.18 as 1.17 without change in text.
 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.

10:87-1.18 (Reserved)

SUBCHAPTER 2. THE APPLICATION PROCESS

10:87-2.1 The household concept

Every food stamp application shall be made on behalf of a household. It is critically important to determine exactly who constitutes the household for food stamp purposes since all considerations of eligibility will follow from this initial determination.

Case Notes

Applicant not permanent legal alien and not present under color of law was ineligible for benefits. *S.V. v. Passaic County Board of Social Services*, 93 N.J.A.R.2d (DEA) 29.

10:87-2.2 Household defined

(a) A household may be composed of any of the following individuals or groups of individuals:

1. Individual living alone;
2. Individual living with others: An individual living with others, but who customarily purchases food and prepares meals for home consumption separate and apart from the others;
3. Group of individuals living together: A group of individuals living together for whom food is purchased in common and for whom meals are prepared together for home consumption;

4. Elderly and disabled individual living with others: An individual who is 60 years of age or older (and the spouse of such individual) living with others who is unable to purchase and prepare meals because he or she suffers from a disability considered permanent under the Social Security Act or suffers from some other physical or mental nondisease-related, severe, permanent disability may be a separate household (see definition of elderly or disabled in N.J.A.C. 10:87-2.38 and verification requirements in N.J.A.C. 10:87-2.20(i)). However, the gross monthly income of the household with which the individual resides cannot exceed the gross monthly income eligibility standard for the appropriate household size in N.J.A.C. 10:87-12.7. This income determination shall be made in accordance with the following procedures:

i. The gross monthly income of the others with whom the elderly, disabled person resides shall be determined as if they were applying for participation in the program. The income of the elderly, disabled person and his or her spouse is not included in the calculation. The elderly, disabled person and his or her spouse are not to be considered household members for this purpose;

ii. The gross monthly income of the others shall then be compared to the monthly income eligibility standard for the appropriate household size in N.J.A.C. 10:87-12.7 to determine if the income is within the prescribed limit. The elderly, disabled person and his or her spouse would not be considered as household members for this comparison.

5. An applicant household that has customarily purchased and prepared food separately in the past but, because of changes in financial or other circumstances, is now temporarily buying and preparing food with others, shall be considered a separate household, providing it intends to return to its former status upon receipt of food stamps. The applicant household's statements on past and intended practices shall suffice, except when the

information provided is questionable according to the criteria at N.J.A.C. 10:87-2.20(i). If the applicant household does not return to its former status, the actual household composition will prevail and will be considered a client-reportable change in accordance with N.J.A.C. 10:87-9.5(a). The 10-day period for reporting that the applicant household has not returned to its former status will commence upon receipt of food stamp benefits.

(b) Individuals or groups of individuals who are residents of an institution (except as otherwise specified in N.J.A.C. 10:87-2.4) or commercial boarding home, or boarders (except as specified in N.J.A.C. 10:87-2.3(b)) may not participate in the program.

(c) In no event shall nonhousehold member status or separate household status be granted to:

1. Parents living with their natural, adopted, or step children and such children living with such parents, unless at least one parent is elderly or disabled as defined in N.J.A.C. 10:87-2.38;

i. If the natural, adopted or step child is a parent of minor children and he or she and the children are living with his or her parents, the parent of the minor children together with such children, may be granted separate household status.

2. Children under 18 years of age under the parental control of an adult member of the household;

3. A spouse of a member of the household. For the purposes of this program the term "spouse" shall include persons recognized by applicable State law as such and persons representing themselves as husband and wife to the community, relatives, friends, neighbors or trades people; or

4. Siblings (natural, adopted, half or step brothers and sisters), unless at least one sibling is elderly or disabled as defined in N.J.A.C. 10:87-2.38.

i. If a sibling is the parent of minor children and he or she and the children are living with his or her sibling, the sibling who is the parent of the minor children, together with such children, may be granted separate household status.

Amended on an emergency basis, R.1981 d.398, effective September 30, 1981 (operative October 1, 1981), expires November 30, 1981.

See: 13 N.J.R. 769(a).

Readopted, R.1981 d.517, effective December 31, 1981.

See: 13 N.J.R. 769(a), 14 N.J.R. 103(a).

Section substantially amended.

Amended by R.1983 d.72, effective February 28, 1983.

See: 15 N.J.R. 97(a), 15 N.J.R. 444(a).

Originally filed as an emergency adoption (R.1982 d.503) on December 30, 1982. Changes upon readoption were precipitated by emergency adoption (R.1983 d.38) filed on January 31, 1983. Readopted as R.1983 d.72. Language has been added to provide for and distinguish income limitations for elderly and disabled individuals living with others.

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.1990 d.270, effective May 21, 1990.

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

Stylistic revisions in (a)4 and 5 correcting reference to N.J.A.C. 10:87-2.20(i).

Case Notes

No separate household status for minor grandchildren. B.G. v. Mercer County Board of Social Services, 93 N.J.A.R.2d (DEA) 15.

Grandparents' income part of household income for minor grandchildren. G.R. v. Passaic County Board of Social Services, 92 N.J.A.R.2d (DEA) 52.

10:87-2.3 Nonhousehold members, boarders and excluded household members

(a) Nonhousehold members: The individuals in (a)1 and 2 below residing with a household shall not be considered household members in determining a household's eligibility or allotment.

1. The following nonhousehold members who are otherwise eligible may participate in the program as separate households.

i. Roomers: Individuals to whom a household furnishes lodging, but not meals, for compensation.

ii. Live-in-attendants: Individuals who reside in a household to provide medical, housekeeping, child care or other similar personal services.

iii. Other individuals: Other individuals who share living quarters in the household but who do not customarily purchase and prepare meals with the household. For example, if the applicant household shares living quarters with another family to save on rent but does not purchase and prepare food together with that family, the members of the other family are not members of the applicant household.

2. The following nonhousehold members are ineligible to participate in the program as separate households.

i. Ineligible student of an institution of higher education: Persons enrolled in an institution of post-secondary education who are ineligible because they fail to meet the eligibility criteria in N.J.A.C. 10:87-5.9(a)12.

(b) Boarders: Boarders are defined as individuals or groups of individuals residing with a household and paying reasonable compensation to the household for lodging and meals excluding residents of a commercial boarding house.

1. Program participation: Boarders are ineligible to participate in the program independent of the household providing boarder services to them. Boarders may only participate in the program as members of the household providing the boarder services to them, at such household's request. Boarders who are included in the household shall have all income and resources counted in determining the household's eligibility.

2. Parents, children, spouse or sibling: In no event shall boarder status be granted to children or siblings residing with elderly or disabled parents or siblings or to those individuals or groups of individuals described in N.J.A.C. 10:87-2.2(c).

3. Paying reasonable compensation and boarder status: To determine if an individual qualifies for boarder status, it is necessary to determine if the individual is paying reasonable compensation for meals and lodging. Only that amount paid for meals shall be used in determining reasonable payment provided that the amount paid for meals is distinguished from the amount paid for lodging. A reasonable monthly payment shall be either of the following:

i. Boarders whose board arrangement is for more than two meals per day shall pay an amount which equals or exceeds the maximum coupon allotment (MCA) for the appropriate size of the boarder household; or

ii. Boarders whose board arrangement is for two meals or less per day shall pay an amount which equals or exceeds two-thirds the MCA for the appropriate size of the boarder household.

4. Paying less than reasonable compensation: Boarder status shall not be extended to an individual who is furnished both meals and lodging by a household but is paying compensation of less than a reasonable amount (as specified in (b)3 above). Such individual shall be considered a member of the household which provides the meals and lodging and shall have his or her income and resources counted in determining the eligibility and benefits of the household with whom the individual boards.

5. Income and resources of persons having boarder status: None of the income and resources of individuals determined to be boarders and who are not members of the household providing boarder services shall be considered available to such household. However, the amount of the payment that a boarder gives to a household shall be treated as self-employment income to the household in accordance with N.J.A.C. 10:87-5.4(a)3.

6. Foster children cannot be required to be included in the household with whom they reside. The household has the option of including foster children in the household, but if it elects not to do so, then the foster children shall be treated as boarders.

(c) Excluded household members: The following individuals residing with a household shall be excluded from the household when determining the household's size for the purpose of assigning a benefit level to the household or of comparing the household's monthly income with the income eligibility standards. However, the income and resources of an excluded household member shall be considered available to the remaining household members in accordance

with N.J.A.C. 10:87-7.14. Excluded household members may not participate in the program as separate households.

1. Intentional program violation: Individuals disqualified for intentional program violation (see N.J.A.C. 10:87-11.1 through 11.5);

2. Social Security number: Individuals disqualified for failure to obtain or refusal to provide a Social Security number (see N.J.A.C. 10:87-3.15);

3. Ineligible alien or citizenship status: Individuals who do not attest to or meet the citizenship or eligible alien status requirements of N.J.A.C. 10:87-3.6, 3.7, and 3.8 or the eligible sponsored alien requirements of N.J.A.C. 10:87-7.18; or

4. Individuals disqualified for noncompliance with the work registration, employment and training program, or voluntary quit provisions at N.J.A.C. 10:87-10.

Amended by R.1981 d.97, effective April 9, 1981.

See: 13 N.J.R. 96(c), 13 N.J.R. 228(a).

(a)5: new text substituted for old.

(a)6: delete disqualification of college students for failure to meet school year work registration requirements.

Amended on an emergency basis, R.1981 d.398, eff. September 30, 1981 (oper. October 1, 1981) exp. November 30, 1981. See: 13 N.J.R. 769(a). Readopted, R.1981 d.517, eff. December 31, 1981. See: 13 N.J.R. 769(a), 14 N.J.R. 103(a).

(a)2i: "or" deleted after "spouse" and "or parents" added; "or to either parents . . . of age or older."

Amended by R.1983 d.72, effective February 28, 1983.

See: 15 N.J.R. 97(a), 15 N.J.R. 444(a).

Originally filed as an emergency adoption (R.1982 d.503) on December 30, 1982. Changes upon readoption were precipitated by an emergency adoption (R.1983 d.38) filed on January 31, 1983. Readopted as R.1983 d.72. The definition of "boarders" has been amended and language has been added to clarify inclusion of income and resources of disqualified individuals.

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, eff. 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). Language concerning disqualified individuals changed to excluded household members.

Emergency Rule, R.1987 d.202, effective April 3, 1987 (expires June 2, 1987).

See: 19 N.J.R. 649(a).

(c)5 added.

Readoption of Emergency Rule and Concurrent Proposal, R.1987 d.261, effective July 6, 1987.

See: 19 N.J.R. 649(a), 19 N.J.R. 1207(b).

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.1990 d.270, effective May 21, 1990.

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

Stylistic revisions in (c)4 correcting reference to N.J.A.C. 10:87-2.21(b).

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

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

Deleted (a)2ii regarding individuals disqualified for noncompliance with various work and/or training requirements.

Revised such text at (c)4 for excluded household members.

10:87-2.4 Residents of institutions and homeless individuals defined

(a) Individuals shall be considered residents of an institution when the institution provides them with the majority of their meals (over 50 percent of three meals daily) as part of the institution's normal services. Residents of institutions are not eligible for participation in the Food Stamp Program, with the following exceptions:

1. Federal subsidized housing for the elderly: Residents of federally subsidized housing for the elderly, built under either section 202 of the Housing Act of 1959 or Section 236 of the National Housing Act;

2. Narcotic addicts or alcoholics: Narcotic addicts or alcoholics who, for the purpose of regular participation in a drug or an alcohol treatment and rehabilitation program, reside at a facility or treatment center as described in N.J.A.C. 10:87-2.7(e);

3. Group living arrangements: Blind and/or disabled individuals who meet the definition of N.J.A.C. 10:87-2.38 and who reside in a public or private nonprofit group living arrangement that serves no more than 16 residents (see N.J.A.C. 10:87-2.7(f));

4. Shelters for battered women and children: Women or women with their children temporarily residing in a shelter for battered women and children shall be considered individual household units for the purpose of applying for and participating in the program.

i. Shelters for battered women and children defined: A shelter for battered women and children shall be defined as a public or private nonprofit residential facility that serves battered women and their children and which may be authorized by FNS to accept and redeem food coupons. If such a facility serves other individuals, a portion of the facility must be set aside on a long-term basis to serve only battered women and children.

ii. The CWA shall maintain a list of shelters which meet the definition in (a)4i above and document the basis of this determination. Shelters having FNS authorization to redeem coupons through wholesalers shall be deemed as meeting the above definition.

5. Residents of public or private nonprofit shelters for homeless persons.

(b) Homeless individual means an individual who lacks a fixed and regular nighttime residence or whose primary nighttime residence is:

1. A supervised shelter designed to provide temporary accommodations, such as a welfare hotel or congregate shelter;

2. A halfway house or similar institution that provides temporary residence for individuals intended to be institutionalized;

3. A temporary accommodation in the residence of another individual; or

4. A place not designed for, or ordinarily used, as regular sleeping accommodation for human beings (a hallway, a bus station, a lobby or similar places).

Amended by R.1982 d.473, effective January 3, 1983.

See: 14 N.J.R. 1037(a), 15 N.J.R. 34(a).

Added, group living arrangements and shelters for battered women.

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.1993 d.62, effective February 1, 1993.

See: 24 N.J.R. 3207(b), 25 N.J.R. 584(a).

In (a)3, revised definition of who qualifies for food stamp benefits in an institution.

10:87-2.5 Boarding home/house

(a) Residents of commercial boarding homes/houses are not eligible for program benefits. For program purposes, a boarding home/house shall be defined as an establishment which is licensed as a commercial enterprise which offers meals and lodging for compensation. In areas without licensing requirements, a boarding home/house shall be defined as a commercial establishment which offers meals and lodging for compensation with the intention of making a profit. The number of boarders shall not be used to determine if a boarding home/house is a commercial enterprise.

(b) Boarding home/house proprietor: The household of the proprietor of a boarding home/house may participate in the Program separate and apart from the residents of the boarding home if that household meets all of the eligibility requirements for program participation.

Case Notes

Remedy for violation of boarding home standards was not a food stamp application by resident therein, but an enforcement proceeding by Department of Community Affairs to correct violation. D.W. v. Union County, 95 N.J.A.R.2d (DEA) 13.

10:87-2.6 Head of household

(a) The household shall designate an adult member to be head of household, except that for purposes of failure to comply with work registration, work and training requirements and voluntary quit provisions, the head of household shall be determined in accordance with (b) below.

(b) For purposes of failure to comply with work registration, work and training requirements, and voluntary quit provisions, the head of household shall be considered to be the principal wage earner.

1. Principal wage earner: The principal wage earner shall be the household member (including excluded members, see N.J.A.C. 10:87-2.3(c)) who has the greatest source of earned income in the two months prior to the month of the work registration, work or training requirement or voluntary quit violation. This provision applies only if the employment involves 20 hours or more per week or provides weekly earnings at least equivalent to the Federal minimum wage multiplied by 20 hours.

(h) SSI jointly processed households: For SSI jointly processed households as defined in N.J.A.C. 10:87-2.12(a)3, the SSA/DO shall conduct a single interview for both food stamps and SSI. Jointly processed households shall not be required to see a CWA eligibility worker or otherwise be subjected to an additional interview by the CWA in order to obtain food stamps (see N.J.A.C. 10:87-2.22).

Amended by R.1984 d.17, effective February 6, 1984.
See: 15 N.J.R. 1821(a), 16 N.J.R. 246(a).

Reference added, to right of applicant to bring person of choice to an interview.

Emergency Rule R.1985 d.4, effective January 2, 1985 (expires March 3, 1985).

See: 17 N.J.R. 215(a).

(a)2i added.

Readoption by R.1985 d.145, effective March 4, 1985.

See: 17 N.J.R. 215(a), 17 N.J.R. 818(a).

This is the readoption of Emergency Rule adding (a)2i.

Emergency Amendment, R.1987 d.202, effective April 3, 1987 (expires June 2, 1987).

See: 19 N.J.R. 649(a).

Substituted "principal" for "primary".

Readoption of Emergency Rule and Concurrent Proposal, R.1987 d.261, effective July 6, 1987.

See: 19 N.J.R. 649(a), 19 N.J.R. 1207(b).

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.1990 d.270, effective May 21, 1990.

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

In (e), revised definition of elderly or disabled.

In (e)1, added rural area residency to hardships.

10:87-2.20 Mandatory verification

(a) The CWA shall verify the following information in (b) through (k) below prior to certification for households initially applying for food stamp benefits.

(b) Gross nonexempt income: Gross nonexempt income shall be verified for all households prior to certification. However, where all attempts to verify the income have been unsuccessful because the person or organization providing the income has failed to cooperate with the household and the CWA, and all other sources of verification are unavailable, the eligibility worker shall determine the amount to be used for certification purposes based on the best available information.

(c) Alien status: For each household member identified on the application as an alien, the CWA shall determine if that member is an eligible alien (see N.J.A.C. 10:87-3.8) by requiring that the household present verification for each alien member.

1. Verification of immigrant status and continuous residence: Aliens lawfully admitted as immigrants and aliens in continuous residence (see N.J.A.C. 10:87-3.8(a)) shall present INS Form I-151 or Form I-551 "Alien Registration Receipt Card" or the "Re-entry Permit", a passport booklet for lawful permanent resident aliens.

2. INS Form I-94: Aliens in the categories specified in N.J.A.C. 10:87-3.8(a)3 through 7 shall present an INS Form I-94, "Arrival—Departure Record". The CWA

shall accept the INS Form I-94 only if it is annotated with Section 207, 208, 212(d)(5), or 243(h) of the Immigration and Nationality Act; or if the form is annotated with one of the following terms or combination of terms: refugee, parolee, paroled, or asylum.

i. An INS Form I-94 annotated with the letters (A) through (L) shall be considered verification of ineligible status unless the alien can provide other documentation from INS which indicates the alien is eligible.

ii. If the INS Form I-94 does not bear any acceptable annotations and the alien has no other verification of alien classifications in his or her possession; the CWA shall advise the alien to submit Form G-641, Application for Verification of Information from Immigration and Naturalization Service Records, to INS. The CWA shall accept this form when presented by the alien and properly annotated at the bottom by an INS representative as evidence of lawful admission for permanent residence or parole for humanitarian reasons. The alien shall also be advised that classification under Sections 207, 208, 212(d)(5) or 243(h) of the Immigration and Nationality Act shall result in eligible status. Additionally, the alien shall also be advised that he or she may be eligible if acceptable verification is obtained and that the alien may contact INS or otherwise obtain the necessary verification. If the alien so wishes and signs a written consent, the CWA will contact INS to obtain clarification of the alien's status.

3. Aliens unable to provide documentation: If an alien is unable to provide any INS document at all (not even an INS Form I-94), the CWA has no responsibility to offer to contact the INS on the alien's behalf. The CWA's responsibility exists only when the alien has an INS document that does not clearly indicate eligible or ineligible alien status. In any event, the CWA shall not contact INS to obtain information about the alien's correct status without the alien's written consent.

4. Other documentation of alien status: If the proper INS documentation is not available, the alien may state the reason and submit other conclusive verification. The CWA shall accept other forms of documentation or corroboration from INS that the alien is classified pursuant to Section 101(a)(15), 101(a)(20), 207, 208, 212(d)(5), 243 or 249 of the Immigration and Nationality Act, or other conclusive evidence such as a court order stating that deportation has been withheld pursuant to Section 243(h) of the Immigration and Nationality Act.

5. Awaiting verification of alien status: While awaiting acceptable verification, the alien whose status is questionable shall be ineligible. If the alien does not wish to contact INS or give permission for the CWA to contact INS, the household shall be given the option of withdrawing its application or participating without that member. The income and resources of the ineligible alien shall be treated in the same manner as an excluded individual as set forth in N.J.A.C. 10:87-7.14 and shall be considered

available in determining the eligibility of any remaining household members.

6. Reporting illegal aliens: Whenever the CWA determines that any member of a household is ineligible to receive food stamps because he or she is present in the United States in violation of the Immigration and Nationality Act, that individual shall be reported to the local INS office. CWAs must take a distinction between aliens who are ineligible for the Food Stamp Program for various reasons and aliens who are in the United States illegally. Only those aliens specifically known to be illegal aliens shall be reported to INS.

i. When a household indicates inability or unwillingness to provide documentation or alien status for any household member, that member should be classified as an ineligible alien.

(d) Utility expenses: The CWA shall verify a household's utility expenses if the household wishes to claim expenses in excess of the appropriate utility allowance and the expense would actually result in a deduction. If the household's actual utility expenses cannot be verified before the 30 days allowed to process the application expire, the CWA shall use the appropriate utility allowance, provided the household is entitled to use one of the utility allowance as specified in N.J.A.C. 10:87-5.10(a)5iv.

1. Unoccupied home: If a household wishes to claim expenses for an unoccupied home, the CWA shall verify the household's actual utility expenses for the unoccupied home in every case and shall not use either of the utility allowances.

(e) Medical expenses: The amount of any medical expenses (including the amount of reimbursements) deductible under N.J.A.C. 10:87-5.10(a)3 shall be verified prior to initial certification. Verification of other factors including whether or not the services provided are allowable under N.J.A.C. 10:87-5.10(a)3i or the eligibility of the person incurring the cost, shall be required if questionable.

(f) Residency: Residency (see N.J.A.C. 10:87-3.2 and 3.3) shall be verified except in unusual cases (such as homeless household, some migrant farmworker households or households newly arrived in the county) when verification of residency cannot reasonably be accomplished. Acceptable verification of residency should be accomplished, to the extent possible, in conjunction with the verification of other information such as but not limited to rent and mortgage payments, utility expenses and identity. If verification cannot be accomplished in conjunction with the verification of other information, the CWA shall use a collateral contact or other readily available documentary evidence. Any documents or collateral contacts which reasonably establish the household's residency shall be accepted and no requirements for a specific type may be imposed (see also N.J.A.C. 10:87-3.4).

(g) Identity: The identity of the person making application shall be verified. If an unauthorized representative applies on behalf of a household, the identity of both the authorized representative and the head of household shall be verified. Identity may be verified through readily available documentary evidence, or if that is unavailable, through collateral contact.

1. Acceptable verification: Examples of acceptable documentary evidence which the applicant may provide include, but are not limited to, a driver's license, a work or school identification card, an identification for health benefits or for another assistance or social service program, a voter registration card, wage stubs, or a birth certificate. Any documents which reasonably establish the applicant's identity must be accepted, and no requirement for a specific type of document may be imposed.

(h) Procedures for obtaining and verifying Social Security numbers are as follows:

1. The CWA shall verify the Social Security numbers (SSNs) provided by the household with the Social Security Administration (SSA) by submitting them through the management information system. Certification for, or issuance of benefits to, an otherwise eligible household shall not be delayed pending SSN verification. Once the SSNs have been verified, the CWA shall make a permanent annotation to the household case file to prevent unnecessary reverification of the SSN in the future. Social Security numbers previously verified by another program participating in the Income Eligibility Verification System shall be acceptable to the CWA for Food Stamp Program participation.

2. The CWA shall require an individual who is unable to provide, or does not have, a Social Security number to submit an application for a SSN (Form SS-5) to the Social Security Administration. The CWA shall advise the household member that proof of application from the SSA will be required prior to certification. The Social Security Administration receipt for application for a SSN, Form SSA-5028, may be used as evidence that an individual has applied for a Social Security number. Refusal or failure without good cause to provide a Social Security number will result in disqualification of the individual for whom a SSN is not obtained.

i. If the county welfare agency determines that a household member has refused or failed without good cause to provide or apply for a SSN, then that individual shall be ineligible to participate in the Food Stamp Program. The disqualification applies to the individual for whom the SSN is not provided, and not to the entire household. The earned or unearned income and resources of an individual disqualified for failure to obtain or provide a SSN shall be counted as household income and resources.

3. Determining good cause procedures are as follows:

i. In determining if good cause exists, the CWA shall consider information from the household member, Social Security Administration and other State sources, that the household member has applied for, and/or made every effort to obtain a SSN from the Social Security Administration. Good cause does not include delays due to illness, lack of transportation or temporary absences, as the Social Security Administration makes provisions for mailing applications in lieu of applying in person. If a household member can show good cause why an application for a SSN has not been completed, that person shall be allowed to participate for one month in addition to the month of application. The CWA caseworker should make every effort to assist the individual in obtaining documents required to support an application for a Social Security number.

ii. Good cause for failure to apply must be shown monthly in order for a household member to continue participation. Once an application has been filed, the CWA shall permit the member to participate pending notification of the household member's SSN.

4. The disqualified household member(s) may end the disqualification and become eligible upon providing the CWA with a SSN.

5. The CWA is authorized to use SSNs in the administration of the Food Stamp Program and shall enter all SSNs obtained into the management information system. CWAs shall have access to information regarding individual Food Stamp Program applicants and participants who receive SSI benefits under Title XVI of the Social Security Act to determine such a household's eligibility for and level of food stamp benefits, or to verify information related to benefits received by such households. The CWA shall also use the SSN(s) to prevent duplicate participation and to determine the accuracy and/or reliability of information given by households.

(i) Household composition: The CWA shall verify any factors affecting the composition of a household if questionable.

1. Individuals who claim to be a separate household from those with whom they reside shall be responsible for providing that they are a separate household to the satisfaction of the CWA.

2. Individuals who claim to be a separate household from those with whom they reside based on the various age and disability factors at N.J.A.C. 10:87-2.38, shall be responsible for proving such claims in accordance with (j) below.

(j) Disability determinations shall be processed as follows:

1. The CWA shall verify disability, as defined in N.J.A.C. 10:87-2.38, as follows:

i. For individuals to be considered disabled under N.J.A.C. 10:87-2.38(a)2, 3, and 4, the household shall

provide proof that the disabled individual is receiving benefits under Titles I, II, X, XIV, or XVI of the Social Security Act;

ii. For individuals to be considered disabled under N.J.A.C. 10:87-2.38(a)6, the household shall present a statement from the Department of Veterans Affairs (DVA) which clearly indicates that the disabled individual is receiving veteran's disability benefits for a service-connected or nonservice-connected disability and that the disability is rated or paid at the total rate by DVA;

iii. For individuals to be considered disabled under N.J.A.C. 10:87-2.38(a)7 and 8, proof by the household that the disabled individual is receiving veteran's disability benefits is sufficient verification of disability;

iv. For individuals to be considered disabled under N.J.A.C. 10:87-2.38(a)5 and 9, the CWA shall use the Social Security Administration's (SSA) most current list of disabilities considered permanent under the Social Security Act for verifying disability. If it is obvious to the caseworker that the individual has one of the listed disabilities, the household shall be considered to have verified disability. If disability is not obvious to the caseworker, the household shall provide a statement from a physician or licensed or certified psychologist certifying that the individual has one of the nonobvious disabilities listed as the means for verifying disability under N.J.A.C. 10:87-2.38(a)5 and 9;

v. For individuals to be considered disabled under N.J.A.C. 10:87-2.38(a)10, the household shall provide proof that the individual receives a Railroad Retirement disability annuity from the Railroad Retirement Board and has been determined to qualify for Medicare;

vi. For individuals to be considered disabled under N.J.A.C. 10:87-2.38(a)11, the CWA shall verify that the individual receives the qualifying medical assistance identified at N.J.A.C. 10:87-2.38(a)11;

2. For disability determinations which must be made relevant to the provisions of N.J.A.C. 10:87-2.2(a)4, the CWA shall use the SSA's most current list of disabilities as the initial step for verifying if an individual has a disability considered permanent under the Social Security Act. However, only those individuals who suffer from one of the disabilities mentioned in the SSA list who are unable to purchase and prepare meals because of such disability shall be considered disabled for the purpose of this provision. If it is obvious that the individual is unable to purchase and prepare meals because he or she suffers from a severe physical or mental disability, the individual shall be considered disabled for the purpose of the provision even if the disability is not specifically mentioned on the SSA list. If the disability is not obvious, the caseworker shall verify the disability by requiring a statement from a physician or licensed or certified psychologist certifying that the individual (in the physician

or psychologist's opinion) is unable to purchase and prepare meals because he or she suffers from one of the nonobvious disabilities mentioned in the SSA list or is unable to purchase meals because he or she suffers from some other disease or nondisease-related disability. The elderly and disabled individual (or his or her authorized representative) shall be responsible for obtaining the cooperation of the individuals with whom he or she resides in providing the necessary income information about the others to the CWA for purposes of this provision.

(k) The CWA shall verify all factors of eligibility for households who have been terminated for refusal to cooperate with a State quality control reviewer, and reapply after 95 days from the end of the annual review period. The CWA shall verify all factors of eligibility for households who have been terminated for refusal to cooperate with a Federal quality control reviewer and reapply after seven months from the end of the annual review period.

10:87-2.21 Verification of questionable information

(a) The CWA shall verify all other factors of eligibility not described at N.J.A.C. 10:87-2.20 prior to certification only if they are questionable and affect the household's eligibility or benefit level. To be considered questionable, the information on the application must be inconsistent with statements made by the applicant, inconsistent with other information on the application or previous applications, or inconsistent with information received by the CWA prior to certification. When determining if information is questionable, the CWA shall base the decision on each household's individual circumstances. The fact that a household's expenses exceed its income may be grounds for a determination that further verification may be required. However, this fact shall not, in and of itself, be grounds for a denial. The CWA shall instead explore with the household how it is managing, whether or not the household receives excluded income or has resources, and how long the household has managed under these circumstances. Certain special procedures described in this section shall be followed when information concerning one of the following eligibility requirements is questionable.

(b) Citizenship: When a household's statement that one or more of its members is a U.S. citizen is questionable, the household shall be asked to provide acceptable verification. Acceptable forms of verification include birth certificates, religious records, voter registration cards, or certificates of citizenship or naturalization provided by INS, such as Identification Cards for Use of Resident Citizens in the U.S. (INS Form I-179 or INS Form I-97) or U.S. Passports.

1. Participation in the AFDC program shall be considered acceptable verification of citizenship if verification was obtained for that household for eligibility in that program.

2. If the above forms of verification cannot be obtained and the household can provide a reasonable explanation as to why verification is not available, the CWA shall accept a signed "Affidavit of Citizenship" from someone who is a U.S. citizen who declares, under penalty of perjury that the member in question is a U.S. citizen.

3. The member whose citizenship is in question shall be ineligible to participate until proof of United States citizenship is obtained. Until proof of United States citizenship is obtained, the member whose citizenship is in question shall have his or her income, less a pro rata share, and all of his or her resources considered available to any remaining household members as set forth in N.J.A.C. 10:87-7.14(c).

(c) Deductible expenses: Deductible expenses other than utility costs which exceed the standard or heating utility allowance shall be verified if questionable and if allowing the expense would actually result in a deduction. In accordance with N.J.A.C. 10:87-5.10(a)5iv(1) and (2), the CWA shall verify that the household is entitled to a utility allowance.

1. Shelter costs of unoccupied homes: Households which wish to claim shelter costs for a home that is unoccupied because of employment or training away from home, illness or abandonment caused by a natural disaster or casualty loss must provide verification of actual utility costs would result in a deduction. These households are also responsible for providing verification of any other shelter costs of the unoccupied home if the cost is questionable and it would result in a deduction. The CWA is not required to assist the household in obtaining verification of this expense if the verification would have to be obtained from a source outside the county.

2. Delays in verification: If a deductible expense must be verified and obtained the verification may delay the household's certification, the CWA shall advise the household that the household's eligibility and benefit level may be determined without providing a deduction for a claimed but unverified expense. Shelter costs would be computed without including the questionable and unverified components. The standard utility allowance shall be used if the household is entitled to claim it and has not verified higher actual costs. If the expense cannot be verified within 30 days of the date of application, the CWA shall determine the household's eligibility and benefit level without providing a deduction for the unverified expense.

Repealed by R.1981 d.316, effective September 10, 1981.
 See: 13 N.J.R. 364(a), 13 N.J.R. 581(a).
 New Rule R.1985 d.346, effective July 1, 1985.
 See: 17 N.J.R. 883(a), 17 N.J.R. 1659(a).
 Amended by R.1989 d.121, effective February 21, 1989.
 See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

Old section ALFX file was repealed and this new section was recodified from 2.26.

10:87-2.25 (Reserved)

Repealed by R.1981 d.316, effective September 10, 1981.

Case Notes

M.R. v. Camden County Welfare Board, 1 N.J.A.R. 94, (1979).

10:87-2.26 (Reserved)

Repealed by R.1989 d.121, effective February 21, 1989.
 See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

This section was repealed and the text was recodified to 2.24.

10:87-2.27 (Reserved)

Repealed by R.1989 d.121, effective February 21, 1989.
 See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

The section "BENDIX/SDX" was repealed.

10:87-2.28 Verification subsequent to initial certification

(a) At recertification, the CWA shall verify a change in income or actual utility expenses if the source has changed or the amount has changed by more than \$25.00. Previously unreported medical expenses and total recurring medical expenses which have changed by more than \$25.00 shall also be verified at recertification.

(b) Questionable information: The CWA shall not verify income, total medical expenses, or actual utility expenses claimed by households which are unchanged or have changed by \$25.00 or less, unless the information is incomplete, inconsistent, or outdated. Other information which has changed may be reverified at recertification. Unchanged information shall not be verified unless the information is incomplete, inconsistent, inaccurate, or outdated. Verification under this section shall be subject to the same verification procedures as apply to initial verification.

(c) Changes: Changes reported during the certification period shall be subject to the same verification procedures that apply at initial certification, except that the CWA shall not verify changes in income, total medical expenses or actual utility expenses if the amount has changed by \$25.00 or less, unless the information is incomplete, inconsistent, inaccurate, or outdated.

1. Change in household composition: If the change reported is a change in household composition, the CWA shall verify through the ALFX system that no household member is participating in the Food Stamp Program as part of another household (see N.J.A.C. 10:87-2.21(e)).

(d) Social Security numbers: Newly obtained Social Security numbers shall be verified at recertification in accor-

dance with verification procedures in N.J.A.C. 10:87-2.20(h).

Amended by R.1979 d.459, effective January 1, 1980.
 See: 12 N.J.R. 40(c).

Added medical expenses, clarified language, changed internal references to conform.

Amended by R.1985 d.346, effective July 1, 1985.
 See: 17 N.J.R. 883(a), 17 N.J.R. 1659(a).

(a)2i added.

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.1990 d.270, effective May 21, 1990.
 See: 22 N.J.R. 139(a), 22 N.J.R. 1599(a).

Revised text to clarify when household must report changes in deductible expenses.

In (a): added language about medical expenses.

Revised text in (b) and deleted (b)1 regarding unchanged information.

In (c): added "... unless the information ... outdated" to final sentence.

10:87-2.29 Denial of the application

Households that are found to be ineligible shall be sent a notice of denial as soon as possible, but not later than 30 days following the date the application was filed. If the household has failed to appear for two scheduled interviews and has made no subsequent contact with the CWA to express an interest in pursuing the application, the CWA shall send the household a notice of denial on the 30th day following the date of application. The household shall file a new application, if it wishes to participate in the Program. In cases where the CWA was able to conduct an interview and request all of the necessary verification on the same day the application was filed, and no subsequent requests for verification have been made, the CWA may also deny the application on the 30th day if the CWA provided assistance to the household in obtaining verification when required, as specified in N.J.A.C. 10:87-2.23(d), but the household failed to provide the requested verification.

New Rule, R.1990 d.270, effective May 21, 1990.
 See: 22 N.J.R. 139(a), 22 N.J.R. 1599(a).

10:87-2.30 Normal processing standard

(a) The CWA shall provide eligible households that submit a complete application an opportunity to participate as soon as possible, but not later than 30 calendar days after the application was filed. An application is considered filed the day the appropriate food stamp office receives the application containing the applicant's name and address and signed by either a responsible member of the household or the household's authorized representative. For SSI jointly processed households, the application shall be considered filed for normal processing purposes when the signed application is received by the SSA district office. For residents of public institutions who jointly apply for food stamps and SSI under SSA's Prerelease Program for the Institutionalized, the application shall be considered filed for normal processing purposes when the resident is released from the

institution. Households entitled to expedited processing are specified in N.J.A.C. 10:87-2.32 et seq.

(b) Opportunity to participate: An opportunity to participate consists of providing households with an ATP and having an issuance facility open and available for the household to obtain its allotment. If the ATP is mailed, two days shall be allowed for delivery before determining if the household has been provided an opportunity to participate. A household has not been provided an opportunity to participate within 30 days of application if the ATP is mailed on the 29th or 30th day. Neither has an opportunity to participate been provided if the ATP is mailed on the 28th day but no issuance facility is open on the 30th day where the household can obtain coupons. The CWA must mail the ATP at least two days in advance of the 30th day and assure that the ATP can be transacted after it is received but before the 30th day expires. The CWA shall ensure that each certified household is provided an ID card concurrent with the initial issuance of food stamp benefits to the household.

1. Any ATP issued after the 15th day of the month shall not expire until the end of the following month.

2. A household shall be entitled to replaced benefits, lost as a result of being unable to obtain a particular allotment, if the validity period of the ATP expires between the time the household requested a replacement ID card and the delivery of that card to the household.

3. Households which apply for initial benefits after the 15th day of the month and which have completed the application and provided all required verification within 30 days of the date of application and have been determined eligible to receive benefits for the initial month of application and the next subsequent month, shall receive their prorated allotment for the initial month and their first full month's allotment at the same time. Households which apply for initial benefits after the 15th day of the month under the expedited service provisions at N.J.A.C. 10:87-2.32 and 2.33 and which have completed the application and provided all required verification within the five-day processing standard and have been determined eligible to receive benefits for the initial month of application and the subsequent month shall receive their prorated allotment for the initial month and their first full month's allotment at the same time.

(c) Processing standards during a period of Federal reduction, suspension or cancellation of food stamp benefits: Determinations of eligibility shall be made in accordance with normal processing standards. For a household entitled to expedited processing as specified in N.J.A.C. 10:87-2.34 et seq., issuance of benefits shall be made in accordance with the following provisions:

1. Reduction: If a household is found to be eligible for benefits and a reduction is in effect, the amount of benefits shall be calculated based on the reduction formula provided by DFD.

2. Suspension or Cancellation: If a household is found to be eligible for benefits while a suspension or cancellation is in effect, no benefits shall be issued to the household until issuance is again authorized by DFD.

Amended by R. 1980 d.117, effective March 19, 1980.
See: 11 N.J.R. 517(a), 12 N.J.R. 195(b).

Added (b)1.

Amended by R.1981, d.64, effective February 26, 1981.
See: 13 N.J.R. 226(b).

(c) added.

Amended by R.1989 d.121, effective February 21, 1989.
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

Changed "35" to "34".

Amended by R.1989 d.464, effective September 5, 1989.
See: 21 N.J.R. 1636(a), 21 N.J.R. 2790(a).

Date of application for applicants who are institutionalized is now the same as date of release from institution. ID card provided at initial issuance. Provision for replacement benefits added at (b)2.

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

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

In (b)1: changed "19th" to "15th" day. Added new (b)3.

Case Notes

Failure to advise applicant of placement of application in pending status and reason therefore was, at best, a technical violation, as applicant was aware that reason for delay was her refusal to cooperate. M.R. v. Camden Cty. Welfare Bd., 1 N.J.A.R. 94 (1979).

10:87-2.31 Delays in processing

(a) If the CWA does not determine a household's eligibility and provide an opportunity to participate within 30 days of the date the application was filed, the CWA shall take action as indicated below.

(b) Failure to appear for two interviews: If the household has failed to appear for two scheduled interviews and has made no subsequent contact with the CWA to express interest in pursuing the application, the CWA shall send the household a notice of denial on the 30th day following the date of application. The household must file a new application if it wishes to participate in the program. See (c)5 below for households which express interest in pursuing the application after failing to appear for two scheduled interviews.

(c) Determining cause: The CWA shall determine the cause of the delay. A delay shall be considered the fault of the household if the household has failed to complete the application process even though the CWA has taken all the action required to assist the household. The CWA must have taken the following actions before a delay can be considered the fault of the household:

1. Failure to complete the application: For households which have failed to complete the application form, the CWA must have offered, or attempted to offer, assistance in completion.

2. Failure to register for work: If one or more members of the household have failed to register for work (as required in N.J.A.C. 10:87-10.4), the CWA must have informed the household of the need to register for work and given the household at least 10 days from the date of notification to register those members.

3. Incomplete verification: In cases where verification is incomplete, the CWA must have provided the household with a Notice of Required Verification (Form FSP-33) offered to assist the household in obtaining required verification, and allowed the household sufficient time to provide the missing verification.

4. Sufficient time to provide missing verification shall be at least 10 days from the date of the CWA's initial request for the particular verification which was missing.

5. Failure to appear for an interview: For households which have failed to appear for an interview, the CWA must have attempted to reschedule the initial interview within 30 days of the date the application was filed.

i. If the household has failed to appear for the first interview and a subsequent interview is postponed at the household's request or cannot otherwise be rescheduled until after the 20th day but before the 30th day following the date the application was filed, the household must appear for the interview, bring verification and register members for work by the 30th day. Otherwise, the delay shall be the fault of the household.

ii. If the household has failed to appear for the first interview and a subsequent interview is postponed until after the 30th day following the date the application was filed, the delay shall be the fault of the household.

iii. If the household has missed both scheduled interviews and requests another interview, any delay shall be the fault of the household.

(d) Fault of the CWA: Delays that are the fault of the CWA include, but are not limited to those cases in which the CWA failed to take one or more of the actions described in (c) above.

(e) Delays caused by the household: If, by the 30th day, the CWA cannot take any further action on the application due to the fault of the household, the household shall lose its entitlement to benefits for the month of application.

1. On the 30th day, the CWA shall send a Notice of Denial to the household. If the household takes the required action within 60 days following the date that the application was filed, the CWA shall reopen the case without requiring a new application. No further action by the CWA is required after the Notice of Denial is sent, if the household fails to take the required action within 60 days following the date the application was filed. The Notice of Denial shall include the following:

i. The action that the household must take to reactivate the application;

ii. That the case will be reopened without a new application if action is taken within 30 days of the date that the Notice of Denial was mailed;

iii. That the household must resubmit a new application if, at the end of the 30-day period, the household has not taken the needed action and wishes to participate in the program.

(f) Delays caused by the CWA: Whenever a delay in the initial 30-day period is the fault of the CWA, the CWA shall take immediate corrective action. The CWA shall not deny the application if it caused the delay but shall instead notify the household by the 30th day after the application was filed that the application is being held pending. The CWA shall also notify the household of any action it must take to complete the application process.

1. Household found eligible in second 30-day period: If the household is found to be eligible during the second 30-day period, the household shall be entitled to benefits retroactive to the month of application. If, however, the household is found to be ineligible, the CWA shall deny the application.

(g) Delays beyond 60 days: The following procedures apply as appropriate when a delay occurs in the second 30-day period.

1. Complete case record: If the CWA is at fault for not completing the application process by the end of the second 30-day period, and the case record is otherwise complete, the CWA shall continue to process the original application until an eligibility determination is reached.

i. CWA fault in initial delay: If the household is determined eligible, and the CWA was at fault for the delay in initial 30-day period, the household shall receive benefits retroactive to the month of application.

ii. Household fault in initial delay: If the initial delay was the household's fault, the household shall receive benefits retroactive to the month following the month of application. The CWA shall use the original application to determine the household's eligibility in months following the 60 day period.

2. Incomplete case record: If the CWA is at fault for not completing the application process by the end of the second 30-day period, but the case record is not sufficiently complete to reach an eligibility determination, the CWA shall continue to process the original application. If the household is subsequently determined eligible, the procedure in subparagraph (g)1 above shall be used to determine entitlement for retroactive benefits.

3. Household fault in second delay: If the household is at fault for not completing the application process by the end of the second 30-day period, the CWA shall deny the application and require the household to file a new application if it wishes to participate. The household shall not be entitled to any lost benefits even if the delay in the initial 30 days was the fault of the CWA.

4. The CWA shall not determine the household to be ineligible when a person outside of the household fails to cooperate with a request for verification. The CWA shall not consider individuals identified at N.J.A.C. 10:87-2.3(a) and (c) as individuals outside of the household.

Amended by R.1985 d.346, effective July 1, 1985.

See: 17 N.J.R. 883(a), 17 N.J.R. 1659(a).

(a)4ii and (a)6i(2) amended.

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.1990 d.270, effective May 21, 1990.

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

In (c)3: added text to specify how CWA must assist households for which verification is incomplete.

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

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

In (e)2 and (g)1ii revised specific time frames.

Added new (g)4.

Amended by R.1993 d.62, effective February 1, 1993.

See: 24 N.J.R. 3207(b), 25 N.J.R. 584(a).

In (c)3, added the Notice of Required Verification Form.

Amended by R.1995 d.135, effective March 6, 1995.

See: 26 N.J.R. 4298(a), 27 N.J.R. 916(a).

Case Notes

Failure to advise applicant of placement of application in pending status and reason therefore was, at best, a technical violation, as applicant was aware that reasons for delay was her refusal to cooperate. *M.R. v. Camden Cty. Welfare Bd.*, 1 N.J.A.R. 94 (1979).

10:87-2.32 Expedited service

(a) The following households are entitled to expedited service:

1. Households with less than \$150.00 in monthly gross income, as computed in N.J.A.C. 10:87-6.15 provided that the household's liquid resources (for example, cash on hand, checking or savings accounts, savings certificates and lump sum payments as described in N.J.A.C. 10:87-5.9(a)10) do not exceed \$100.00;

2. Migrant or seasonal farmworker households who are destitute as defined in N.J.A.C. 10:87-6.18 provided that the household's liquid resources (for example, cash on hand, checking or savings accounts, savings certificates and lump sum payments as described in N.J.A.C. 10:87-5.9(a)10) do not exceed \$100.00;

3. Eligible households in which all members are homeless as defined in N.J.A.C. 10:87-2.4; and

4. Eligible households whose combined monthly gross income and liquid resources are less than the household's monthly rent or mortgage and utilities.

(b) The CWAs application procedures shall be designed to identify households eligible for expedited service at the time of a request for food stamp assistance. The household shall be prescreened for entitlement to expedited service. For example, a receptionist, volunteer or other agency employee shall screen applications as they are filed or as individuals come in to apply.

Amended by R.1983 d.121, effective April 4, 1983.

See: 15 N.J.R. 247(a), 15 N.J.R. 625(b).

Originally adopted as an Emergency Rule, R.1983 d.38, eff. January 31, 1983. The amendment was pursuant to the Omnibus Budget Reconciliation Act of 1982 (P.L. 97-253) and the Food Stamp and Commodity Distribution Amendments of 1981 (P.L. 97-98, Title 13).

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

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

10:87-2.33 Expedited service processing standards

(a) For households entitled to expedited service, the CWA shall make available to the recipient an ATP card not later than the fifth calendar day following the date an application was filed in the appropriate food stamp office. For residents of public institutions who apply for SSI under SSA's Prerelease Program for the Institutionalized, expedited benefits shall be made available within five calendar days following the date of the resident's release from the institution. The CWA shall ensure that a reasonable opportunity for ATP redemption exists on the day of issuance within the time limits specified in this section.

(b) Drug addicts and alcoholics, and residents of group living arrangement facilities: For residents of drug addiction or alcoholic treatment and rehabilitation centers and residents of group living arrangements (see N.J.A.C. 10:87-7.16(c)1) who are entitled to expedited service, the CWA shall make an ATP available to the recipient no later than the fifth calendar day following the date an application was filed.

(c) Out-of-office interviews: If a household is entitled to expedited service and is also entitled to a waiver of office interview (see N.J.A.C. 10:87-2.19(e)), the CWA shall conduct the interview (unless the household cannot be reached) and complete the application process within the expedited service standards. The first day of this count is the calendar day following application filing.

1. Incomplete applications: if the application is not complete, and the CWA conducts a telephone interview and must mail the application to the household for signature, the mailing time involved will not be counted toward the expedited service standards. Mailing time shall only include the days the application is in the mail to and from the household and the days the application is in the household's possession pending signature and mailing.

(d) Late determinations: If the prescreening required in this section fails to identify a household as being entitled to expedited service and the CWA subsequently discovers that the household is entitled to expedited service, the CWA shall provide such service within the processing standards above except that the processing standard shall be calculated from the date the CWA discovers the household is eligible for expedited service.

(e) Residents of shelters for battered women and children who are otherwise entitled to expedited service shall be handled within the time limits specified in this section.

As amended, R.1982, d.473, eff. January 3, 1983.

See: 14 N.J.R. 1037(a), 15 N.J.R. 34(a).

Residents of group living facilities added.

As amended, R.1983 d.121, eff. April 4, 1983.

See: 15 N.J.R. 247(a), 15 N.J.R. 625(b).

Originally adopted as an Emergency Rule, R.1983 d.38, eff. January 31, 1983. The amendment was pursuant to the Omnibus Budget Reconciliation Act of 1982 (P.L. 97-253) and the Food Stamp and Commodity Distribution Amendments of 1981 (P.L. 97-98, Title 13). Amended by R.1989 d.121, effective February 21, 1989.

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

Original section 2.33 "Identifying households needing expedited service" repealed and 2.34 recodified to 2.33 and substantially amended. Amended by R.1989 d.464, effective September 5, 1989.

See: 21 N.J.R. 1636(a), 21 N.J.R. 2790(a).

Expedited benefits available to clients five days after release from institution.

10:87-2.34 Special procedures for expediting service

(a) The CWA shall use the following procedures when expediting certification and issuance.

1. Verification procedure: In order to expedite the certification process, the CWA shall use the following verification procedures:

i. In all cases the applicant's identity shall be verified through a collateral contact or readily available documentary evidence:

(1) Documentary evidence: Examples of acceptable documentary evidence which the household may provide include, but are not limited to, a driver's license, work or school I.D. card, voter registration card, or birth certificate.

ii. All reasonable efforts shall be made to verify, within the expedited processing standards, the household's residency, income statements (including a statement that the household has no income), liquid resources and all other verification factors required in N.J.A.C. 10:87-2.20 and 2.21 through collateral contacts or readily available documentary evidence:

(1) Benefits shall not be delayed beyond the delivery standards prescribed in N.J.A.C. 10:87-2.33 solely because these eligibility factors have not been verified.

iii. CWAs shall attempt to obtain as much additional verification as possible during the interview, but shall not delay the certification of households entitled to

expedited service for the full time frame prescribed in N.J.A.C. 10:87-2.33 when the CWA has determined it is unlikely that other verification can be obtained within the expedited processing standards; and

iv. Households entitled to expedited service shall be asked to furnish or apply for a Social Security number for each household member before the first full month of participation. Those household members unable to provide the required SSNs or who do not have one prior to the first full month of participation shall be allowed to continue to participate only if they satisfy the good cause requirement specified in N.J.A.C. 10:87-2.21(h).

v. Migrant households determined eligible for expedited service after the 15th of the month and assigned a certification period of more than one month shall be notified in writing of the following:

(1) Postponed certification from sources within the state must be provided before the second full month's benefits will be issued.

(2) Postponed verification from out-of-state sources must be provided before the third full month's benefits will be issued.

vi. Migrant households shall be entitled to a postponement of out-of-State verification only once each season. If the household has already been granted a postponement of out-of-State verification, such verification may be postponed for the initial month's benefits only.

vii. If verification results in a change in the household's eligibility or benefit level, the CWA shall act on the change without advance notice.

2. Contacting the collateral contact: Once the household has supplied the name of a collateral contact or has asked the CWA for assistance in locating one the CWA shall promptly contact the collateral contact or otherwise assist the household in obtaining the necessary verification.

3. Certification period: Households which are certified on an expedited basis and have provided all necessary verification required in N.J.A.C. 10:87-2.20 and 2.21 prior to certification shall be assigned a normal certification period (see N.J.A.C. 10:87-6.19). If verification is postponed, the CWA shall certify these households for the month of application (the month of application and the subsequent month for those households applying after the 15th of the month) or, at the option of the CWA shall assign the normal certification period warranted by the household's circumstances. However, in no event will benefits be continued past the month of application if verification is not obtained. Federally mandated reduction, suspension, or cancellation of allotments in a given month shall have no effect on the certification periods assigned to households.

i. One month certification: If certified only for the month of application, the household must reapply and complete the verification requirements which were postponed.

ii. Certification for longer than one month: If a certification period longer than one month is assigned, the CWA shall notify the household in writing that no further benefits will be issued until the postponed verification is completed and that if the postponed verification is not completed within 30 days of the date of application, the household's application will be denied. The notice shall also advise the household that if verification results in changes in the household's eligibility or level of benefits, the CWA shall act on those changes without an advance notice of adverse action. When households which applied for benefits after the 15th of the month provide the postponed verification, the CWA shall issue the second month's benefits within five working days from receipt of the verification or the first of the second month, whichever is later.

iii. Unlimited expedited certifications: There is no limit to the number of times a household can be certified under expedited procedures, so long as prior to each expedited certification the household either completes the verification requirements which were postponed at the last expedited certification or was certified under normal processing standards since the last expedited certification.

iv. Households not entitled to expedited service: Households requesting, but not entitled to, expedited service shall have their application processed according to normal standards.

4. Expedited service during a period of Federal reduction, suspension, or cancellation of food stamp benefits: Households eligible to receive expedited processing which apply for program benefits during a month in which a reduction, suspension, or cancellation is in effect, shall have their cases processed in accordance with the above procedures, subject to the following provisions:

i. Reduction: Households which receive expedited service in a month in which a reduction is in effect and which are determined to be eligible, shall be issued allotments that are reduced in accordance with the reduction in effect. The reduced allotments shall be made available to the households within the time frame specified in N.J.A.C. 10:87-2.33.

ii. Suspension: Households which receive expedited service in a month in which a suspension is in effect and that are determined to be eligible, shall have benefits issued *within* the time frame specified in N.J.A.C. 10:87-2.33 unless the suspension is still in effect at the time issue is to be made.

iii. Cancellation: Households eligible to receive expedited processing which apply for benefits during a month in which cancellation is in effect shall receive expedited service. However, the deadline for completing the processing of such cases shall be five days or the end of the month of application, whichever date is later. All other regulations pertaining to expedited service shall be applicable to these cases.

5. Work registration: The CWA shall at a minimum, require the applicant to register for work unless exempt.

i. The CWA shall attempt to register other household members (including the head of household, if an authorized representative is making application) but shall postpone the registration of such household members if it cannot be accomplished within expedited processing standards. The CWA may attempt registration of other household members by:

(1) Requesting the applicant (or authorized representative) complete the work registration forms for other household members to the best of his/her ability; or

(2) Accomplishing work registration for other household members in a timely manner through other means, such as contacting the household.

ii. The CWA may attempt to verify questionable work registration exemptions, but such verification shall be postponed if expedited processing standards cannot be met.

Amended by R.1981 d.64, effective February 26, 1981.

See: 13 N.J.R. 226(b).

(a)3: "February nondated . . . households" added.

(a)4 added.

As amended on an emergency basis, R.1981 d.398, eff. September 30, 1981 (Oper. October 1, 1981), exp. November 30, 1981.

See: 13 N.J.R. 769(a).

Readopted, R.1981 d.517, eff. December 31, 1981.

See: 13 N.J.R. 769(a), 14 N.J.R. 103(a).

(a)3: added "the CWA shall certify . . . 15th of the month or at" and "option of the";

(a)3ii: added "when households . . . whichever is later."

Amended by R.1983, d.121, effective April 4, 1983.

See: 15 N.J.R. 247(a), 15 N.J.R. 625(b).

Originally adopted as an Emergency Rule, R.1983 d.38, eff. January 31, 1983. The amendment was pursuant to the Omnibus Budget Reconciliation Act of 1982 (P.L. 97-253) and the Food Stamp and Commodity Distribution Amendments of 1981 (P.L. 97-98, Title 13).

Amended by R.1985 d.346, effective July 1, 1985.

See: 17 N.J.R. 883(a), 17 N.J.R. 1659(a).

(a)iv. through vii. added.

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 and recodified from 2.35.

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

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

In (a)1.ii and (a)3, added "2.20" to N.J.A.C. 10:87 reference.

10:87-2.35 AFDC eligibility determination (PA households)

(a) Action on the food stamp portion of the application shall not be delayed nor the application denied on the grounds that the AFDC eligibility determination has not been made.

1. Anticipating AFDC grant: If the CWA can anticipate the amount and date of the initial AFDC grant, but the grant will not be received until a subsequent month, the CWA shall vary the household's food stamp benefit level according to the anticipated receipt of payment and notify the household.

2. Retroactive AFDC payments: Portions of initial AFDC payments intended to retroactively cover a previous month shall be disregarded as lump-sum payments in accordance with N.J.A.C. 10:87-5.9(m).

3. Unable to anticipate receipt of AFDC: If the amount or date of receipt of the initial AFDC payment cannot be reasonably anticipated at the time of food stamp eligibility determination, the AFDC payments shall be treated as a change in circumstances.

4. Adverse action: The CWA is not required to send a notice of adverse action if the receipt of the AFDC grant reduces or terminates the household's food stamp benefits, provided the household is notified in advance that its benefits may be reduced or terminated when the grant is received.

5. Denial of AFDC: A household whose AFDC application is denied shall not be required to file a new food stamp application but shall have its food stamp eligibility determined or continued on the basis of the original application filed jointly for AFDC and food stamp purposes and any other documented information obtained subsequent to the application which may have been used in the PA determination and which is relevant to food stamp eligibility or level of benefits.

Amended by R.1981 d.97, effective April 9, 1981.

See: 13 N.J.R. 96(c), 13 N.J.R. 228(a).

(a)2: N.J.A.C. 10:87-5.9(a)10 was (a)9.

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

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

Recodified with amendments from 2.36.

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

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

In (a)5: added text "filed jointly . . . purposes" regarding applications.

10:87-2.36 Categorically eligible AFDC/SSI households

(a) Any household, except those listed in (c) below, in which all members are authorized to receive AFDC/SSI benefits shall be considered categorically eligible for the Food Stamp Program unless the household is institutionalized or disqualified for any reason from receiving food stamps.

1. Residents of public institutions applying jointly for SSI and food stamp benefits shall not be categorically eligible upon a finding by the Social Security Administration (SSA) of potential SSI eligibility prior to release. Those individuals shall be considered categorically eligible when a final SSI eligibility has been made and the individual has been released from the institution.

2. Authorized to receive means that an individual is considered a recipient if he or she has been determined eligible for AFDC/SSI but has not yet received or, is not currently entitled to, a money payment.

3. Categorically eligible recipients shall include those persons determined eligible to receive AFDC/SSI but currently not entitled to cash benefits; that is, persons whose benefits are being recovered and/or suspended subject to retrospective budgeting when the household is temporarily ineligible in a prior budget month, and AFDC recipients whose benefits are less than \$10.00 and are therefore not payable.

4. Individuals entitled only to Medicaid and not AFDC/SSI shall not be considered categorically eligible. Additionally, General Assistance (GA) and AFDC-N recipients shall not be considered categorically eligible for food stamp purposes.

i. If an AFDC household contains one or more -N segment individuals or a GA recipient, the household shall not be considered categorically eligible.

(b) For any household that is otherwise categorically eligible, no person shall be included as a member of that household if that person is:

1. An ineligible alien as defined in N.J.A.C. 10:87-3.7 through 3.9;

2. An ineligible student as defined in N.J.A.C. 10:87-2.3(a)2; or

3. Institutionalized in a non-exempt facility (see N.J.A.C. 10:87-2.4).

4. When determining benefit levels for households containing ineligible individuals, the income and resources of such ineligible members shall be treated in accordance with procedures at N.J.A.C. 10:87-7.

(c) No household shall be considered categorically eligible for food stamps if any member of that household is disqualified for:

1. An intentional program violation (see N.J.A.C. 10:87-11.1 et seq.);

2. Failure to comply with monthly reporting requirements in accordance with N.J.A.C. 10:90; or

3. The head of the household is disqualified for failure to comply with the work requirements contained in N.J.A.C. 10:87-10.

4. Such households are subject to all food stamp eligibility criteria and benefit determination provisions and cannot be reinstated in the Program on the basis of categorical eligibility provisions.

(d) The factors which are deemed for food stamp eligibility without the verification required by N.J.A.C. 10:87-2.20 and 2.21 because of AFDC/SSI status are:

1. Gross and net income limits;
2. Resource limits;
3. Social Security number information;
4. Sponsored alien information; and
5. Residency.

(e) If any of the following factors are questionable, the CWA shall verify, in accordance with N.J.A.C. 10:87-2.21, that the household which is considered categorically eligible contains:

1. Only members that are AFDC or SSI recipients;
2. Meets the definition of a household in accordance with N.J.A.C. 10:87-2.2;
3. Includes all persons who purchase and prepare food together in one food stamp household regardless of whether or not they are separate units for AFDC or SSI purposes; and
4. Includes no person disqualified as specified in (c) above (see also N.J.A.C. 10:87-10 and 10:87-11.1).

(f) The exemptions concerning work registration in the food stamp employment and training program shall be applied to individuals in categorically eligible households. Individual(s) not exempt from work registration shall be subject to work requirements contained in N.J.A.C. 10:87-10.

(g) Households in which all members are applying for AFDC/SSI shall be allowed to apply for food stamp benefits at the same time they apply for AFDC/SSI benefits. Such households' food stamp eligibility and benefit level shall be based on food stamp eligibility criteria. Households, whether jointly processed and/or eligible because of their AFDC/SSI status, shall be certified in accordance with the notice, procedural and timeliness requirements of N.J.A.C. 10:87-2.29 through 2.37.

(h) Households applying for both AFDC and food stamps shall complete a joint application for both programs. The joint application shall clearly indicate that the household is providing information for both programs and is subject to the criminal penalties of both programs for making false statements.

(i) The CWA shall conduct a single interview at initial application for both AFDC and food stamp purposes. AFDC households shall not be required to see a different eligibility worker or otherwise be subjected to two interview requirements to obtain the benefits of both programs.

1. Following the single interview, the application may be processed by separate workers to determine eligibility and benefit levels for food stamps and AFDC.

2. A household's eligibility for a food stamp out-of-office interview does not relieve the household of any responsibility for a face-to-face interview to be certified for AFDC.

(j) For households applying for both AFDC and food stamps, the verification procedures described in N.J.A.C. 10:87-2.20 and 2.21 shall be followed for those factors of eligibility which are needed solely for purposes of determining the household's eligibility for food stamps. For those factors of eligibility which are needed to determine both AFDC eligibility and food stamp eligibility, the CWA may use the AFDC verification rules.

1. However, the CWA shall not delay the household's food stamp benefits if, at the end of 30 days following the date the application was filed, the CWA has sufficient verification to meet the food stamp verification requirements, but insufficient verification to meet the AFDC verification rules.

(k) In order to determine if a household will be eligible due to its status as a recipient AFDC/SSI household, the CWA may temporarily postpone, within the 30-day processing standard, the food stamp eligibility determination, if the household is not entitled to expedited service and appears to be categorically eligible. However, the CWA shall postpone denying a potentially categorically eligible household until the 30th day, in the event that the household is determined eligible to receive AFDC/SSI benefits.

1. Once the AFDC/SSI application is approved, the household is to be considered categorically eligible if it meets all categorical eligibility criteria.

2. If the CWA can anticipate the amount and the date of receipt of the initial AFDC/SSI payment, but the payment will not be received until a subsequent month, the CWA shall vary the household's food stamp benefit level according to the anticipated receipt of the payment and notify the household. Portions of initial AFDC/SSI payments intended to retroactively cover a previous month shall be disregarded as lump sum payments.

3. If the amount or date of receipt of the initial AFDC/SSI payment cannot be reasonably anticipated at the time of the food stamp eligibility determination, the AFDC/SSI payments shall be handled as a change in circumstances.

(l) The CWA is not required to send a notice of adverse action if the receipt of the AFDC/SSI grant reduces, suspends or terminates the household's food stamp benefits, provided the household is notified in advance that its benefits may be reduced, suspended, or terminated when the grant is received. The case may be terminated if the household is not categorically eligible.

(m) The CWA shall ensure that a denied application of a potentially categorically eligible household is easily retrievable, in the event that the household is subsequently found to be categorically eligible.

(n) For a household filing a joint application for food stamps and AFDC/SSI benefits, or a household that has an AFDC/SSI application pending and is denied food stamps but is later determined eligible to receive AFDC/SSI benefits and is otherwise categorically eligible, the CWA shall provide benefits using the original application and any other pertinent information occurring subsequent to that application, except for residents of public institutions who apply for AFDC/SSI benefits prior to their release from the public institution. Benefits shall be paid from the beginning of the period for which AFDC/SSI benefits are paid, the original food stamp application date or December 23, 1985, whichever is later.

1. The CWA shall not reinterview the household, but shall use any available information to update the application and/or make mail or phone contact with the household or authorized representative to determine any changes in circumstances. Changes shall be initialed and the updated application resigned by the authorized representative or household member. In no event can benefits be provided prior to the date of the original food stamp application filed on or after December 23, 1985.

(o) Any household determined AFDC/SSI eligible which is categorically eligible within the 30-day food stamp processing time shall be provided benefits in accordance with N.J.A.C. 10:87-2.30. Benefits shall be prorated in accordance with current procedures. However, no food stamp benefits shall be paid for a month in which such household is ineligible for receipt of AFDC/SSI benefits, unless the household is eligible as an NPA case.

(p) Households that file joint applications that are found categorically eligible after being denied NPA food stamps shall have their benefits for the initial month prorated from the date from which the PA benefits are payable or the date of the original food stamp application, whichever is later.

(q) The CWA shall act on reevaluating the original application either at the household's request or when it becomes otherwise aware of the household's AFDC and/or SSI eligibility. The household shall be informed on the notice of denial to notify the CWA if its AFDC or SSI benefits are approved. Households who file joint applications for food stamps and AFDC/SSI and are subsequently denied may be required to file a new food stamp application or have their food stamp eligibility determined or continued on the basis of the original applications.

(r) The CWA shall notify households of the need for a new application. If a required new application is filed within 30 days of the original application, the filing date of

the new application shall be the filing date of the original joint application.

(s) Households whose AFDC/SSI applications are denied shall not be required to file a new food stamp application, but shall have their food stamp eligibility determined or continued on the basis of the original applications. The CWA may, in evaluating food stamp eligibility or benefit levels, use any other documented information obtained subsequent to the application, which may have been used in the AFDC/SSI determination.

(t) Categorical eligibility shall be assumed at recertification, in the absence of a timely AFDC redetermination. If a recertified household is subsequently terminated from AFDC benefits, the procedures in N.J.A.C. 10:87-9.5 shall be followed, as appropriate.

New rule R.1989 d.121, effective February 21, 1989.

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

Amended by R.1989 d.464, effective September 5, 1989.

See: 21 N.J.R. 1636(a), 21 N.J.R. 2790(a).

Cross-reference to N.J.A.C. 10:87-2.30 added.

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

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

Stylistic and structural changes throughout to conform with Federal regulations regarding eligibility for food stamp benefits of AFDC and SSI recipient households.

Added new (a)1 and renumbered 1-3 as 2-4, with no change in text.

Added head of household text at (c)3.

Added new provision at (o) regarding ineligibility status of AFDC/SSI recipients.

Added new (s) and (t).

10:87-2.37 Procedures for SSI jointly processed households

(a) Supplemental Security Income (SSI) is defined as Federal SSI payments made under Title XVI of the Social Security Act, federally administered optional supplementary payments under section 1616 of that Act, or federally administered mandatory supplementary payments made under section 212(a) of Public Law 93-66. Households may apply and be certified for food stamp benefits in accordance with the procedures described herein and with the notice, procedural and timeliness requirements of the Food Stamp Act.

1. Households applying simultaneously for SSI and food stamps shall be eligible to receive benefits based solely on food stamp eligibility criteria until the household is considered categorically eligible. Households denied NPA food stamps that have an SSI application pending shall be informed on the notice of denial of the possibility of categorical eligibility should they become SSI recipients.

(b) Initial application at the Social Security District Office (SSA/DO): The SSA/DO will inform households eligible for SSI joint processing (see N.J.A.C. 10:87-2.12(a)3) of their right to apply for food stamps at the SSA/DO without going to the food stamp office and will refer all other households to the appropriate food stamp office. The SSA/DO will accept and complete FSP-901A forms received

from households eligible for SSI joint processing and forward them within one working day to the appropriate CWA. Along with the FSP-901A, the SSA/DO will forward a Social Security Administration Transmittal for Food Stamp Applications (Form SSA-4233) which documents all verification obtained by the SSA employee.

1. Telephone or mail contact by the SSA/DO: During a telephone interview, if the SSA/DO takes an initial or redetermination application for SSI, a food stamp application will also be completed. In these cases an FSP-901A will be mailed to the claimant for signature to be returned to the SSA/DO or CWA. The SSA/DO will then forward any food stamp application it receives to the appropriate food stamp office. The CWA may not require the household to be interviewed again in the food stamp office (see N.J.A.C. 10:87-2.22). SSI recipients who are redetermined for SSI by mail will be sent a notice informing them of their right to file a food stamp application at the SSA/DO or their local food stamp office and have an out-of-office interview performed by the CWA if the household is unable to appoint an authorized representative.

2. Entitlement to expedited service: The SSA/DO will prescreen all applications for entitlement to expedited service on the day received, and will mark "Expedited Processing" on the SSA-4233 for all households which appear to be so entitled. The SSA/DO will inform such households that benefits may be issued a few days sooner if they apply directly at the food stamp office for screening and interview, and processing of the application.

3. Residents of public institutions who apply for SSI under SSA's Prerelease Program for the Institutionalized may complete a joint application for SSI/FS prior to release from the institutions, and are subject to the same provisions applicable to all other jointly processed SSI households, with the following exceptions:

i. The 30-day processing standard described in N.J.A.C. 10:87-2.30 to deliver benefits to a prerelease applicant shall be based upon the date the individual is released from the institution, rather than the date the application is filed at the CWA.

ii. A prerelease applicant who is entitled to expedited service shall be provided food stamp benefits no later than the fifth calendar day following the date of release from the institution.

iii. A prerelease applicant's benefit level for the initial month of certification shall be based on the day of the month the resident is released from the institution.

(c) Recertification at the SSA/DO: Jointly processed SSI households which have received a food stamp notice of expiration (Form FSP-907A) and who appear at an SSA/DO for an SSI redetermination shall be entitled to make a timely application for food stamp recertification at the SSA/DO office.

(d) Denial of SSI: For jointly processed cases in which the SSI determination results in a denial and the CWA believes that food stamp eligibility or benefit levels may be affected, the CWA shall send the household a Notice of Expiration (Form FSP-907A) advising the household that its certification period will expire at the end of the month following the month in which the notice is sent.

(e) The CWA receiving food stamp applications from SSA for SSI households are required to determine if any member of the SSI household is currently participating in the Food Stamp Program.

(f) The CWA shall ensure that information required by N.J.A.C. 10:87-2.20, 2.21 and 2.22 is verified prior to certification for households initially applying for food stamps. Households shall be provided the opportunity to provide verification from another source if all necessary SSI benefit payment information is not available on/through the State Data Exchange (SDX) or Beneficiary Data Exchange (BENDEX) (see N.J.A.C. 10:87-2.22).

(g) Households identified as categorically eligible due to their pure SSI status and requiring expedited service shall be handled in accordance with the provisions of N.J.A.C. 10:87-2.34 above.

(h) An applicant or recipient of social security benefits under Title II of the Social Security Act shall be informed by the SSA/DO of the availability of benefits and an application at the SSA office. Interviews and application processing is not required by the SSA/DO unless an eligibility worker has been outstationed at the SSA office.

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.1989 d.464, effective September 5, 1989.

See: 21 N.J.R. 1636(a), 21 N.J.R. 2790(a).

Provisions for applicants who are residents of public institutions added at (b)3.

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

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

Stylistic changes in (f).

10:87-2.38 Elderly or disabled household members

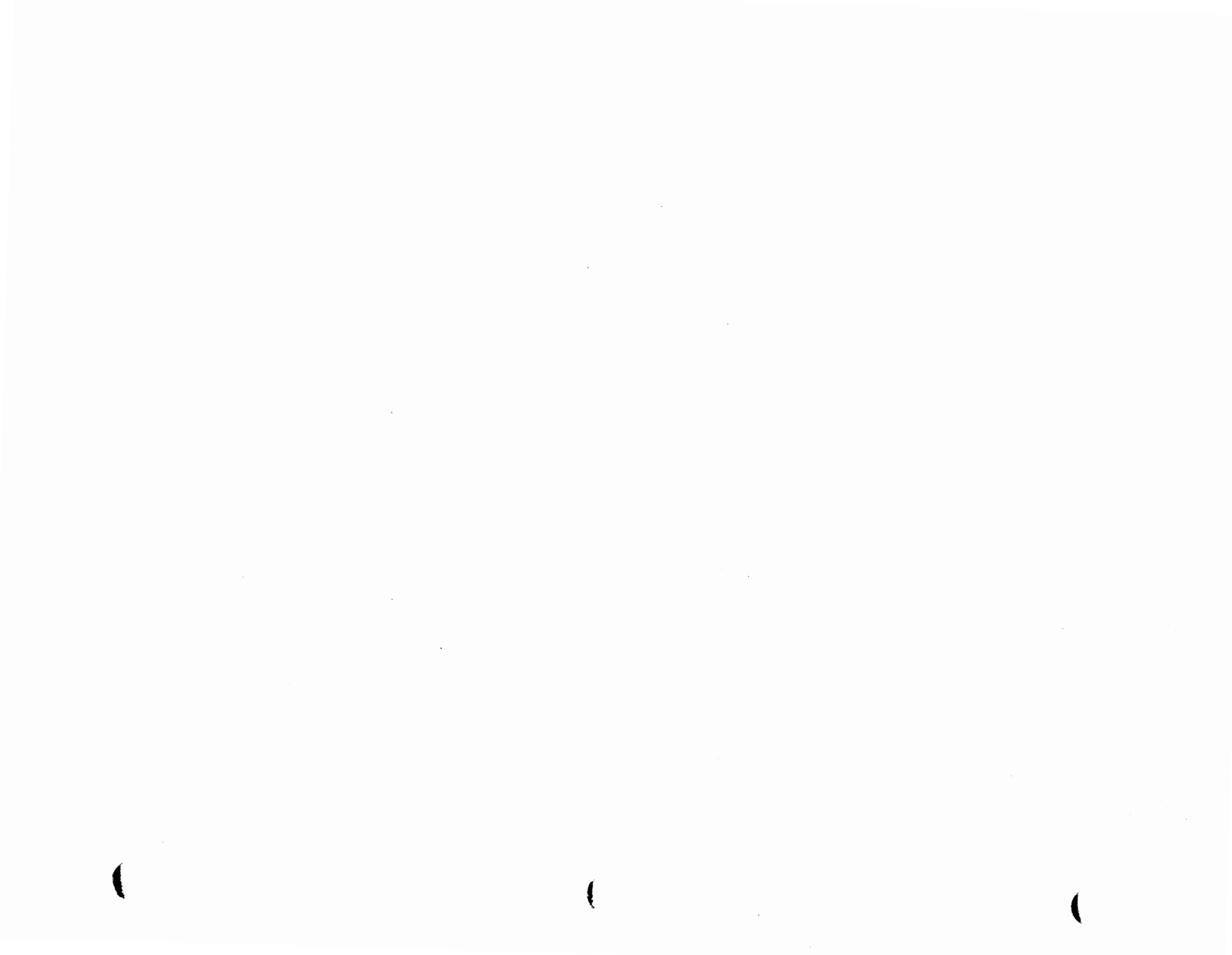
(a) An elderly or disabled member of a food stamp household is defined as a member who:

1. Is 60 years of age or older;
2. Receives supplemental security income benefits under Title XVI of the Social Security Act or disability or blindness payments under Titles I, II, X, XIV, or XVI of the Social Security Act;
3. Receives federally or State-administered supplemental benefits under section 1616(a) of the Social Security Act, provided that the eligibility to receive the benefits is based upon the disability or blindness criteria used under Title XVI of the Social Security Act;

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.

10:87-3.5 Citizenship or permanent alien status

To receive program benefits, the applicant shall be either a United States citizen or an eligible alien.



10:87-3.6 U.S. citizen defined

For the purposes of N.J.A.C. 10:87-3.5, the United States shall be defined as the 50 States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, Swain's Island, American Samoa, and the Northern Mariana Islands. Citizenship shall be verified only if questionable in accordance with N.J.A.C. 10:87-2.21(b).

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).

Revised N.J.A.C. 10:87 reference to 2.20(c).

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

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

Revised N.J.A.C. citation.

10:87-3.7 Eligible alien

(a) Aliens who have been lawfully admitted for permanent U.S. residence and/or who are permanently and lawfully residing in the U.S. shall be eligible for participation in the Food Stamp Program. For a specific listing of aliens eligible for program benefits, see N.J.A.C. 10:87-3.8.

(b) Ineligible alien as a member of the household: The presence of a person in the household who is ineligible for participation in the program because of his or her alien status shall not prevent the remainder of the household from being certified for program benefits, if eligible (see also N.J.A.C. 10:87-2.20(c)).

(c) Ineligible alien as applicant: If the household is comprised of minors (who are eligible for participation in the program) and an adult member who is ineligible for program benefits because of his/her alien status, such adult may make application on behalf of the remaining members of the household. However, if there is another adult in the household who is eligible for benefits, that person shall make application.

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.1990 d.270, effective May 21, 1990.

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

Revised N.J.A.C. 10:87 reference to 2.20(c).

10:87-3.8 Eligible aliens; listing

(a) With the provision that all other eligibility requirements are met, the following aliens shall be eligible for participation in the Food Stamp Program:

1. Immigrants: An alien lawfully admitted for permanent residence as an immigrant as defined in sections 101(a)(15) and 101(a)(20) of the Immigration and Nationality Act (However, an alien lawfully admitted for permanent residence pursuant to section 245A of the Immigration and Nationality Act must be eligible as specified in (a)8 and 9 below) (see N.J.A.C. 10:87-2.20(c) for verification);

2. Continuous residence: An alien who entered the United States prior to January 1, 1972, or some later date as required by law, and has continuously maintained residency in the United States since then, and is not ineligible for citizenship but is considered to be lawfully admitted for permanent residence as a result of an exercise of discretion by the Attorney General pursuant to section 249 of the Immigration and Nationality Act (see N.J.A.C. 10:87-2.20(c) for verification);

3. Conditional entry after March 31, 1980: An alien qualified for conditional entry after March 31, 1980 because of persecution or fear of persecution on account of race, religion, or political opinion pursuant to section 207 (formerly section 203(a)(7)) of the Immigration and Nationality Act (see N.J.A.C. 10:87-2.20(c) for verification);

4. Conditional entry prior to April 1, 1980: An alien who qualifies for conditional entry prior to April 1, 1980 pursuant to former section 203(a)(7) of the Immigration and Nationality Act (see N.J.A.C. 10:87-2.20(c) for verification);

5. Granted asylum: An alien granted asylum through an exercise of discretion by the Attorney General pursuant to section 208 of the Immigration and Nationality Act;

6. Emergent reasons: An alien lawfully present in the United States as a result of an exercise of discretion by the Attorney General for emergent reasons or reasons deemed strictly in the public interest pursuant to section 212(d)(5) of the Immigration and Nationality Act, or as a result of a grant of parole by the Attorney General (see N.J.A.C. 10:87-2.20(c) for verification);

7. Deportation withheld: An alien living within the United States from whom the Attorney General has withheld deportation pursuant to section 243 of the Immigration and Nationality Act because of the judgement of the Attorney General that the alien would otherwise be subject to persecution on account of race, religion, or political opinion (see N.J.A.C. 10:87-2.20(c) for verification);

8. An alien who is defined as aged, blind or disabled in accordance with section 1614(a)(1) of the Social Security Act and is considered to be lawfully admitted for temporary residence pursuant to section 245A(b)(1) of the Immigration and Nationality Act. (Such aliens may obtain lawful permanent resident status under section 245A(b)(1) of the Immigration and Nationality Act no earlier than November 7, 1988). A maximum of 12 months in restored benefits shall be provided, upon request, to any aged, blind, or disabled person who was denied benefits because he or she was admitted for temporary residence under Section 245A(b)1 of the INA;

9. An alien who is granted lawful temporary resident status pursuant to section 245A of the Immigration and Nationality Act at least five years prior to applying for food stamps and who subsequently gained lawful permanent resident status pursuant to section 245A of the Immigration and Nationality Act (Such aliens may obtain temporary residence status no earlier than May 5, 1987);

10. An alien who is, as of June 1, 1987 or thereafter, a special agricultural worker (SAW) and lawfully admitted for temporary residence in accordance with section 210(A) of the Immigration and Nationality Act; or

11. An alien who is lawfully admitted for temporary residence as an additional special agricultural worker (ASAW), as of October 1, 1989 through September 30, 1993, in accordance with section 210A(a) of the Immigration and Nationality Act.

(b) When an alien described at (a)9 above acquires permanent resident status, the family members of that alien acquire permanent resident status and can be included in the alien's household for food stamp purposes. This provision conforms with Section 301(d) of P.L. 100-649.

Amended by R.1984 d.17, effective February 6, 1984.
See: 15 N.J.R. 1821(a), 16 N.J.R. 246(a).

Qualifying dates in regard to conditional entry, added.
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.1990 d.270, effective May 21, 1990.
See: 22 N.J.R. 139(a), 22 N.J.R. 1599(a).

Revised N.J.A.C. 10:87 reference to 2.20(c).
Amended by R.1993 d.62, effective February 1, 1993.
See: 24 N.J.R. 3207(b), 25 N.J.R. 584(a).

In (a)8, provides for restored benefits to temporary residents. Added (b).

Cross References

See N.J.A.C. 10:89-2.2, Home Energy Assistance program eligibility requirements.

Case Notes

Categories of aliens eligible for Food Stamp Program cited as guidance in determination of appropriate category for U.S. resident under color of law seeking AFDC benefits. I.E. v. Passaic Cty. Bd. of Social Services, 3 N.J.A.R. 330 (1981).

10:87-3.9 Ineligible aliens

Aliens other than those described in N.J.A.C. 10:87-3.8 are not eligible to participate in the program as a member of any household. Among those excluded are alien visitors, tourists, diplomats, and students, who enter the United States temporarily with no intention of abandoning their residence in a foreign country.

Amended by R.1989 d.121, effective February 21, 1989.
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

10:87-3.10 Income and resources of ineligible aliens and individual whose citizenship is questionable

The income and resources of an ineligible alien, or individual whose citizenship is questionable, who would be considered a member of a household if he or she did not have ineligible alien status or questionable citizenship status shall be considered in determining eligibility and level of benefits of the household in the same manner as the income and resources of an excluded individual as specified in N.J.A.C. 10:87-7.14(c).

Amended by R.1983 d.223, eff. 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, eff. 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).

Language added referring to ineligible aliens and questionable citizenship.

10:87-3.11 Awaiting verification

(a) If verification of eligible alien status or citizenship as required by N.J.A.C. 10:87-2.20(c) is not provided on a timely basis, the eligibility of the remaining household members shall be determined. The income and resources of the alien(s) whose status is unverified or individual whose citizenship is questionable shall be treated in the same manner as an excluded member as specified in N.J.A.C. 10:87-7.14(c) and considered available in determining the eligibility of the remaining household members.

(b) Subsequent verification: If verification of eligible alien status or citizenship is subsequently received, the CWA shall act on the information as a reported change in household membership in accordance with the timeliness standards in N.J.A.C. 10:87-9.

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, eff. 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 1982 (P.L. 97-35).

References added to citizenship and treatment of income and resources of individuals with questionable citizenship status.

Amended by R.1989 d.121, effective February 21, 1989.
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

Changed 1. to (b).
Amended by R.1990 d.270, effective May 21, 1990.
See: 22 N.J.R. 139(a), 22 N.J.R. 1599(a).

Revised N.J.A.C. 10:87 reference to 2.20(c).

10:87-3.12 Eligibility to use coupons for prepared meals

(a) The following individuals, if members of an eligible household, may use food coupons to purchase prepared meals from any communal dining facility, meal delivery service, alcoholic and/or drug treatment center, group living arrangement, shelter for battered women and children or homeless meal provider which is currently authorized by FNS to accept food coupons.

1. Communal dining: Any member of an eligible household who is 60 years of age or older or members who receive SSI may use all or any part of his/her coupons to purchase meals prepared at a communal dining facility authorized by FNS for that purpose. In addition, if such household member lives with his/her spouse, the spouse may also use coupons to purchase meals from a communal dining facility.

2. Meal delivery service: Any member of an eligible household who is 60 years of age or older, or members who are housebound, feeble, physically handicapped or otherwise disabled to the extent that they are unable to adequately prepare all their meals, may use all or any part of their coupons to purchase meals from a nonprofit meal delivery service. The spouse of such an individual may also use coupons to purchase meals from a meal delivery service, regardless of age or disability.

iii. If discrepancies warrant reducing benefits or terminating eligibility, sending out notices of adverse action.

2. CWAs shall initiate and pursue the actions specified above so that they are completed within 45 days of receipt of the information. Actions may be completed later than 45 days from the receipt of information on no more than 20 percent of the information if:

i. The only reason that the actions cannot be completed is the nonreceipt of verification requested from collateral contacts; and

ii. The actions are completed, as specified in N.J.A.C. 10:87-9.5, when verification from a collateral contact is received or, in conjunction with the next case action, when such verification is not received, whichever is earlier.

3. When the actions specified in (f)1 above substantiate an overissuance, CWAs shall take action on claims as specified in N.J.A.C. 10:87-11.23 through 11.32, inclusive.

4. State agencies shall use appropriate procedures to monitor the timeliness requirements in (f)2 above.

5. Except for the claims actions specified in (f)3 above, under the conditions of (e)7 above, CWAs may exclude from the actions required in (f) above, information items pertaining to household members who are participating in one of the other programs listed in (b) above.

(g) IEVS information and quality control responsibilities are:

1. In compliance with Federal regulations, the DFD uses an administrative system (IEVS) to measure the extent and number of, and occasion and basis for, errors of benefit issuance and/or eligibility in the program.

2. The CWA shall be responsible for investigating and then initiating and implementing actions designed to bring the incidence of errors, as established by DFD's Bureau of Quality Control, within certain pre-set tolerance limits.

New rule, R.1989 d.121, effective February 21, 1989.
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

10:87-3.14 Procedures for students in an institution of higher education

(a) A student in an institution of higher education defined: Any person who is between the ages of 18 and 50 who is physically and mentally fit and is enrolled at least half time in an institution of higher education. Excluded from this definition are persons who are attending high school, participating in on-the-job training programs and training programs which are not institutions of higher education.

(b) Institution of post secondary education defined: An institution of post secondary education is any public or private educational institution which normally requires a high school diploma or equivalency certificate for enrollment or admits persons who are beyond the legal age of compulsory school attendance, provided that the institution is legally authorized by the State to provide an educational program beyond secondary education or provides a training program to prepare students for gainful employment.

(c) Enrollment defined: A student shall be considered "enrolled" in an institution of higher education beginning on the first day of the school term. Such enrollments shall be deemed to continue through normal periods of class attendance, vacation and recess, unless the student graduates, is suspended or expelled, drops out, or does not intend to register for the next normal school term (excluding summer school).

(d) Student eligibility requirements: In order to be eligible to participate in the Food Stamp Program, any student (as defined in (a) above) must meet at least one of the following criteria:

1. Be employed for a minimum of 20 hours per week and be paid for such employment or, if self-employed, be employed for a minimum of 20 hours per week and receive weekly earnings at least equal to the Federal minimum wage multiplied by 20 hours;

2. Participate in a federally financed work study program (funded in full or in part under Title IV-C of the Higher Education Act of 1965 as amended) during the regular school year, or a state financed work study program. To be considered as participating in a work study program, the student must receive earnings or tuition credit for work performed. A student who anticipates starting a work study job in the near future is not to be considered participating in a work study program. A student who has stopped working because the work study program funding has been exhausted is no longer considered a work study program participant, even though the institution of higher education may be satisfied that the student has fulfilled the terms of the work study agreement;

3. Be responsible for the care of a dependent household member under the age of six;

4. Be responsible for the care of a dependent household member between the ages of six and 12 for whom adequate child care is not available to enable the student to either attend class and satisfy the 20 hour work requirement at (d)1 above, or to participate in a state or Federally-financed work study program during the regular school year;

i. The availability and adequacy of child care shall be determined by the CWA on a case by case basis;

- ii. Only one person per dependent may qualify under this provision;
- 5. Be receiving benefits from the Aid to Families with Dependent Children (AFDC) program;
- 6. Be assigned to or placed in an institution of higher education through a program under the Job Training Partnership Act (JTPA);
- 7. Participate in the JOBS program under Title IV of the Social Security Act;
- 8. Participate in a component of the Food Stamp Employment and Training Program;
- 9. Participate in a program under Section 236 of the Trade Act of 1974;
- 10. Participate in a program for the purpose of employment and training operated by a state or local government; or
- 11. Be a full-time student who is a single parent with the responsibility for a dependent child under the age of 12, regardless of the availability of child care.

(e) Ineligible student living with household: The income and resources of an ineligible student living with a household shall not be considered in determining eligibility or level of benefits of the household (see N.J.A.C. 10:87-5.9(a)12).

Amended by R.1981 d.97, effective April 9, 1981.
See: 13 N.J.R. 96(c), 13 N.J.R. 228(a).

Old section concerning "eligibility of taxpayer's household" deleted and new section concerning procedures for students in an institution of higher education substituted therefor.

Amended by R.1983 d.121, effective April 4, 1983.
See: 15 N.J.R. 247(a), 15 N.J.R. 625(b).

Originally adopted as an Emergency Rule, R.1983 d.38, effective January 31, 1983. The Amendment was pursuant to the Omnibus Budget Reconciliation Act of 1982 (P.L. 97-253) and the Food Stamp and Commodity Distribution Amendments of 1981 (P.L. 97-98, Title 13).

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.1993 d.62, effective February 1, 1993.
See: 24 N.J.R. 3207(b), 25 N.J.R. 584(a).

In (a), reduced maximum age criteria from 60 to 50. In (d)2, added a state financial work study program and defined participation in such programs. In (d)4 and 7 through 11, defined care of a dependent and student eligibility for food stamps.

10:87-3.15 Social Security numbers

The CWA shall require that a household participating or applying for participation in the Food Stamp Program provide the CWA with the Social Security number (SSN) of each household member or apply for one before certification. If individuals have more than one number, all numbers shall be required. The CWA shall explain to applicants and participants that refusal or inability to provide a SSN will result in disqualification of the individual for whom the number has not been provided.

Amended by R.1983 d.121, effective April 4, 1983.
See: 15 N.J.R. 247(a), 15 N.J.R. 625(b).

Originally adopted as an Emergency Rule, R.1983 d.38, effective January 31, 1983. The Amendment was pursuant to the Omnibus Budget Reconciliation Act of 1982 (P.L. 97-253) and the Food Stamp and Commodity Distribution Amendments of 1981 (P.L. 97-98, Title 13).

Amended by R.1989 d.121, effective February 21, 1989.
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

Deleted (a)1 through (a)4; recodified from 3.24.

10:87-3.16 Work registration

(a) Each household member who is not exempt shall be registered for employment by the CWA at time of application, and at least once every 12 months as a condition of eligibility for participation in the Food Stamp Program.

(b) The CWA shall provide work registration forms to the applicant or the household's authorized representative for each household member required to register for employment and permit the applicant or authorized representative to complete the form.

(c) See N.J.A.C. 10:87-10.1 et seq. for details concerning work registration, and employment and training requirements.

New Rule, R.1989 d.121, effective February 21, 1989.
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

SUBCHAPTER 4. FINANCIAL ELIGIBILITY; RESOURCES

10:87-4.1 Applicability

(a) The resource criteria and eligibility standards of this subchapter apply to all applicant households, except those in which all members are also applicants for, or recipients of, AFDC and AFDC resource eligibility is or has been established.

1. For public assistance/food stamp (PA/FS) households in which all members of the food stamp household are also applying for or receiving AFDC, and resource eligibility is or has been established for AFDC, such household is resource eligible for food stamps notwithstanding other provisions of this subchapter.

(b) Households that are categorically eligible as defined at N.J.A.C. 10:87-2.36 and 2.39 do not have to meet the resource limits or definitions of this subchapter. Categorically eligible households cited at N.J.A.C. 10:87-2.39 are subject to the transfer of resource provisions at N.J.A.C. 10:87-4.14.

Amended by R.1984 d.414, effective September 17, 1984.
See: 16 N.J.R. 1934(a), 16 N.J.R. 2441(a).

Section substantially amended.

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.1993 d.62, effective February 1, 1993.
See: 24 N.J.R. 3207(b), 25 N.J.R. 584(a).

In (b), categorically eligible households subject to transfer of resources.

10:87-4.2 Determining resources and applicant responsibility

(a) Available resources at the time the household is interviewed shall be used to determine the household's eligibility.

(b) At the time of the certification or recertification interview, the applicant shall report all resources currently held by any member of the household.

Amended by R.1984 d.17, effective February 6, 1984.
See: 15 N.J.R. 1821(a), 16 N.J.R. 246(a).

Resources determined to be those available at the time household is interviewed.

Case Notes

AFDC recipient's eligibility to continue to receive benefits is determined on a monthly basis with certain exceptions. *Eherenstorfer v. Div. of Public Welfare*, 196 N.J.Super. 405, 483 A.2d 212 (App.Div. 1984).

10:87-4.3 Resources defined

(a) The resources of a household shall include the following which shall be recorded by the CWA in sufficient detail to permit verification if necessary (see N.J.A.C. 10:87-2.20, 2.21 and 4.5).

1. Liquid resources: Liquid resources such as cash on hand, money in checking and/or savings accounts, savings certificates, stocks and/or bonds, lump-sum payments as described in N.J.A.C. 10:87-5.9(a)13, funds held in Individual Retirement Accounts (IRAs), and funds held in Keogh plans that do not involve the household member in a contractual relationship with individuals who are not household members.

i. In counting resources of households with IRAs or includable Keogh plans, the CWA shall include the total cash value of the account or plan minus the amount of the penalty (if any) assessed for the early withdrawal of the entire amount in the account or plan.

ii. Keogh plans which do involve a contractual relationship with a nonhousehold member shall be excluded as a resource (see N.J.A.C. 10:87-4.8(a)6).

2. Nonliquid resources: Nonliquid resources, such as personal property, licensed and unlicensed vehicles, buildings, land, recreational property, and any other property not specifically excluded under N.J.A.C. 10:87-4.8.

3. Deemed resources: Resources shall include resources deemed to an alien from his or her sponsor in accordance with N.J.A.C. 10:87-7.18.

Amended by R.1981 d.97, effective April 9, 1981.
See: 13 N.J.R. 96(c), 13 N.J.R. 228(a).

(a)1: "N.J.A.C. 10:87-5.9(a)10" was "(a)9".

Amended by R.1983 d.121, effective April 4, 1983.
See: 15 N.J.R. 247(a), 15 N.J.R. 625(b).

Originally adopted as an Emergency Rule, R.1983 d.38, effective January 31, 1983. The Amendment was pursuant to the Omnibus Budget Reconciliation Act of 1982 (P.L. 97-253) and the Food Stamp and Commodity Distribution Amendments of 1981 (P.L. 97-98, Title 13).

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.1990 d.270, effective May 21, 1990.
See: 22 N.J.R. 139(a), 22 N.J.R. 1599(a).

Revised N.J.A.C. 10:87 reference to 2.20.

Amended by R.1990 d.565, effective November 19, 1990.
See: 22 N.J.R. 2219(a), 22 N.J.R. 3486(a).

Corrected a cross-reference.

Case Notes

Contribution funds accumulated under provisions of the Post-Vietnam Era Veterans Education Assistance Program were liquid assets rendering applicant ineligible for Food Stamp Program (Director's Final Decision). *L.D. v. Passaic Cty. Bd. of Social Services*, 7 N.J.A.R. 309 (1984).

Injury action proceeds held in escrow by attorney are more similar to nonrecurring lump sum payments considered countable resources than to liquid resources, for which actual receipt may be a prerequisite (cited as N.J.A.C. 10:87-4.4). *M.R. v. Camden Cty. Welfare Bd.*, 1 N.J.A.R. 94 (1979).

Liquid resources. *M.R. v. Camden County Welfare Board*, 1 N.J.A.R. 94, (1979).

10:87-4.4 Jointly owned resources

(a) Resources held jointly by separate households shall be considered available in their entirety to each household, unless it can be demonstrated by the applicant household that such resources are inaccessible to that household. If the household can demonstrate that it has access to only a portion of the resources, only the value of that portion shall be counted toward the household's resource level.

(b) Inaccessible: The resource shall be considered totally inaccessible to the household if the resource cannot be practically subdivided and the household's access to the value of the resource is dependent on the agreement of a joint owner who refuses to comply. For the purpose of this provision, excluded household members (as described in N.J.A.C. 10:87-2.3(c)) residing with the household members.

(c) Residents of shelters for battered women and children: Resources shall be considered inaccessible to residents of a shelter for battered women and children if:

1. The resources are jointly owned by such persons and by members of their former household; and

2. The shelter resident's access to the value of the resource is dependent on the agreement of a joint owner who still resides in the former household.

Amended by R.1982 d.473, effective January 3, 1983.
See: 14 N.J.R. 1037(a), 15 N.J.R. 34(a).

Treatment of resources of residents in shelters for battered women.
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).

Added, excluded household members to be considered household members for this provision.

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

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

Added "only" and deleted "of the resource".

10:87-4.5 Verification of resource information

Resource information shall be verified prior to certification only if questionable (see N.J.A.C. 10:87-2.21).

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

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

Deleted (a)4 and substituted (i).

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

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

Deleted (i) from N.J.A.C. reference.

10:87-4.6 Resources of nonhousehold and excluded household members

(a) Nonhousehold members: The resources of nonhousehold members, as described in N.J.A.C. 10:87-2.3(a), shall not be counted as available to the household.

(b) Excluded household members: The resources of excluded household members, as described in N.J.A.C. 10:87-2.3(c), shall be counted as available to the remaining household members in accordance with N.J.A.C. 10:87-7.14(b) and (c).

Amended by R.1981 d.97 effective April 9, 1981.

See: 13 N.J.R. 96(c), 13 N.J.R. 228(a).

(a): "an integral member ... disqualified ... N.J.A.C. 10:87-11.1" added.

(a)1. and 2. deleted.

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).

Distinction made between nonhousehold and excluded household members.

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

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

Deleted (b)1 and (c)1.

10:87-4.7 Resource exclusions

In the determination of resource eligibility, any item classified as a resource exclusion shall not be considered in the determination of eligibility for participation in the program. Where an exclusion applies because of use of a resource by or for a household member, the exclusion shall also apply when the resource is being used by or for an excluded household member whose resources are being counted as part of the household's resources.

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).

Language added concerning excluded household member.

Case Notes

Funds in joint checking account which constituted an accessible trust must be included as a resource in the calculation of resource limitation for Food Stamp program; denial of eligibility affirmed as resource limitation excluded; remand for factual findings on AFDC determination (Division's Final Decision). *G.M. v. Mercer Cty. Bd. of Social Services*, 4 N.J.A.R. 233 (1983).

Regulation is concerned with broad policy questions such as what are exclusions or with assets which applicant has no reasonable prospect of controlling or gaining access to. *M.R. v. Camden Cty. Welfare Bd.*, 1 N.J.A.R. 94 (1979).

10:87-4.8 Identification of resource exclusions

(a) Only the following shall be classified as resource exclusions by the CWA:

1. Home and surrounding property: The home and surrounding property which is not separated from the home by intervening property owned by others.

i. Public rights of way: Public rights of way, such as roads that run through the surrounding property and separate it from the home, will not affect the exclusion of the property.

ii. Home temporarily unoccupied: The home and surrounding property shall remain excluded when temporarily unoccupied for reasons of employment, training for future employment, illness, or uninhabitability caused by casualty or natural disaster, only if the household intends to return to the home.

iii. Building lot: Households which currently do not own a home, but own or are purchasing a lot on which they intend to build or are building a permanent home, shall receive an exclusion for the value of the lot and, if it is partially completed, for the home.

2. Household goods: Household goods, including such items as furniture and appliances.

3. Personal effects: Personal effects, including such items as clothing or jewelry.

4. Burial plots: One burial plot per household member.

5. Life insurance: The cash value of life insurance policies.

6. Pension funds: The cash value of pension plans or funds, only if the funds remain in the pension plans. Keogh plans that involve no contractual relationship with individuals who are not nonhousehold members and Individual Retirement Accounts (IRAs) shall not be excluded.

i. Keogh plans involving a contractual relationship with a nonhousehold member (such as Keogh plans established for the self-employed person(s) and employees) shall be excluded. However, if the Keogh plan is such that individual participants may make withdrawals without affecting the other parties in any way (for example, without any contractual obligation to the other participants), then the household member's funds in the Keogh plan will be counted as a resource.

7. Income producing property: Property which annually produces income consistent with its fair market value, even if used only on a seasonal basis. Such property shall include rental and vacation homes.

8. Property essential for employment: Property, such as farm land, which is essential to the employment or self-employment of a household member. Property essential to the self-employment of a household member engaged in farming shall continue to be excluded for one year from the date the household member terminates his or her self-employment from farming.

9. Work related equipment: Work related equipment, such as the tools of a tradesman or the machinery of a farmer, which is essential to the employment or self-employment of a household member.

10. Certain licensed vehicles: See N.J.A.C. 10:87-4.12.

11. Installment contracts and the value of property sold under contract: Installment contracts for the sale of land or buildings if the contract or agreement is producing income consistent with its fair market value. The exclusion shall also apply to the value of any property sold under contract, or held as security in exchange for a purchase price consistent with the fair market value of that property.

12. Certain disaster payments: Any governmental payments which are designated for the restoration of a home damaged in a disaster, if the household is subject to a legal sanction if the funds are not used as intended. For example, payments made by the Department of Housing and Urban Development (HUD) through the individual and family grant program or disaster loans or grants made by the Small Business Administration (SBA) shall be excluded.

13. Inaccessible resources: Resources having a cash value which is not accessible to the household, such as, but not limited to, irrevocable trust funds (see (a)14 below for treatment of irrevocable trusts), security deposits on rental property or utilities, property in probate and real property which the household is making a good faith effort to sell at a reasonable price and which has not been sold.

i. Good faith effort: The CWA shall verify that the property is actually for sale and that the household has not declined a reasonable offer. Verification may be

obtained through a collateral contact or documentation, such as an advertisement for public sale in a newspaper of general circulation or a listing with a real estate broker.

ii. Non-liquid asset(s) against which a lien has been placed as a result of taking out a business loan and the household is prohibited by the security or lien agreement with the creditor from selling the asset(s) shall be excluded.

iii. If the sale or other disposition of a resource is unlikely to produce any significant amount of funds for the support of the household, the resource shall be considered inaccessible. The CWA is not required to verify that a resource is inaccessible unless the information provided by the household is questionable. This resource exclusion does not apply to vehicles owned by the household.

14. Irrevocable trusts: Any funds held in a trust or transferred to a trust, and the income produced by that trust, to the extent it is not available to the household, shall be considered inaccessible if all of the following criteria apply:

i. Controlled by the trustee: The trustee administering the funds is either:

(1) A court, or an institution, corporation or organization which is not under the direction or ownership of any household member; or

(2) An individual (who may be a household member) appointed by the court who has court-imposed limitations placed on his or her use of the funds that meet the requirements of this paragraph;

ii. Funds held in irrevocable trust: The funds held in an irrevocable trust are either:

(1) Established from the household's own funds, if the trustee uses the funds solely to make investments on behalf of the trust or to pay the educational or medical expenses of any person named by the household creating the trust; or

(2) Established from nonhousehold funds by a nonhousehold member;

iii. Trust investments: Trust investments made on behalf of the trust do not directly involve or assist any business or corporation under the control, direction, or influence of a household member;

iv. Trust not likely to cease: The trust arrangement is not likely to cease during the certification period; and

v. Power to revoke: No household member has the power to revoke the trust arrangement or change the name of the beneficiary during the certification period.

15. Resources counted as income: Resources, such as those of students or self-employed persons, that have been counted as income (see N.J.A.C. 10:87-5.4(a) et seq.).

16. Indian lands: Indian lands held jointly with the Tribe, or land that can be sold only with the approval of the Bureau of Indian Affairs.

17. Resources excluded by Federal law: Resources which are excluded for food stamp purposes by express provision of Federal statute. The following is a listing of resources excluded by Federal statute:

i. WIC benefits: Benefits received from the Special Supplemental Food Program for Women, Infants and Children (WIC) (Public Law 92-433);

ii. Federal relocation reimbursements: Reimbursements from the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 (Public Law 91-646);

iii. Payments to Ottawa Indians: Payments received from the disposition of funds to the Grand River Band of Ottawa Indians (Public Law 96-540);

iv. Alaska native claims: Payments received under the Alaska Native Claims Settlement Act (Public Law 92-203) or the Sac and Fox Indian Claims Agreement (Public Law 94-189);

v. Payments received by certain Indian tribe members: Payments received by certain Indian tribal members regarding submarginal land held in trust by the United States (Public Law 94-114);

vi. Payments from Community Service Administration: Payments received from the Energy Crisis Assistance and Crisis Intervention Program administered by the Community Service Administration;

vii. Energy assistance payments: Payments or allowances made under any Federal, State, or local law for the purpose of energy assistance. In order to qualify for this exclusion, the payments or allowances must be clearly identified as energy assistance by the legislative body authorizing the program or the funds. The State programs of Lifeline, the energy disregard portion of AFDC payments, and Home Energy Assistance qualify for this exclusion;

viii. Payments from Indian Claims Commission: Payments received by the Confederated Tribes and Bands of the Yakima Indian Nation and the Apache Tribe of the Mescalero Reservation from the Indian Claims Commission as designated under Public Law 95-443;

ix. Payments from Maine Indians Claims Settlement: Payments to the Passamoquaddy Tribe and the Penobscot Nation or any of their members received pursuant to the Maine Indian Claims Settlement Act of 1980 (Public Law 96-420);

x. Payments for relocation assistance to members of the Hopi and Navajo Tribes shall be excluded from both resources and income (Public Law 93-531);

xi. Financial assistance provided by a program funded in whole or in part under Title IV of the Higher Education Act in accordance with Public Law 99-498;

xii. Earned income tax credits received before January 1, 1980, as a result of the Revenue Act of 1978 (Public Law 95-600). Earned income tax credits are always excluded in the month of receipt and the month following the month of receipt;

xiii. Payments received under the Civil Liberties Act of 1988 (P.L. 100-383);

xiv. Resources of a household member receiving AFDC and/or SSI benefits;

xv. Resources of a household member which are placed in a Plan for Achieving Self-Support (PASS) account; and

xvi. Payment received under the Radiation Exposure Compensation Act (P.L. 100-426).

18. HUD retroactive tax and utility cost subsidy payments issued pursuant to settlement of *Underwood vs. Harris* against HUD, for the month in which the payment was received and for the following month.

19. Where an exclusion applies because of use of a resource by or for a household member, the exclusion shall also apply when the resource is being used by or for an ineligible alien or disqualified person whose resources are being counted as part of the household's resources. (See N.J.A.C. 10:87-4.7.)

Amended by R.1980 d.117, effective March 19, 1980.

See: 11 N.J.R. 517(a), 12 N.J.R. 194(b).

(a)17iii: Added language on advances; replaced reference to various tax Acts of 1975 and 1976 with "before January 1, 1980, . . ."

(a)17iv: "Youth Employment and Demonstration Project Act of 1977" was replaced by "Title IV . . ."; deleted reference to nonexclusion of CETA and Young Adults Conservation Corps payments.

Amended by R.1980 d.220, effective July 1, 1980.

See: 12 N.J.R. 191(c), 12 N.J.R. 323(d).

Added subparagraph (a)17vii.

Amended by R.1983 d.121, effective April 4, 1983.

See: 15 N.J.R. 247(a), 15 N.J.R. 625(b).

Originally adopted as an Emergency Rule, R.1983 d.38, effective January 31, 1983. The Amendment was pursuant to the Omnibus Budget Reconciliation Act of 1982 (P.L. 97-253) and the Food Stamp and Commodity Distribution Amendments of 1981 (P.L. 97-98, Title 13).

Amended by R.1983 d.141, effective May 2, 1983.

See: 15 N.J.R. 212(b), 15 N.J.R. 692(b).

Language added clarifying irrevocable trusts and court administered trusts as inaccessible resources. Federal payments to certain Indian Tribes added as excludable resources.

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.1989 d.464, effective September 5, 1989.
See: 21 N.J.R. 1636(a), 21 N.J.R. 2790(a).

Exclusion of payments received under Wartime Relocation Act added at (a)17xiv.

Amended by R.1990 d.270, effective May 21, 1990.
See: 22 N.J.R. 139(a), 22 N.J.R. 1599(a).

In (a)8: added text regarding one-year resource exclusion to income producing assets.

In (a)17: deleted iv., "Payments from certain Federal programs," and renumbered v through xiv as iv through xiii with no change in text.
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)17xiii: revised reference to Civil Liberties Act of 1988.

Amended by R.1993 d.62, effective February 1, 1993.

See: 24 N.J.R. 3207(b), 25 N.J.R. 584(a).

Added (a)13iii; revised (a)17vii, xii and xiii; added new xiv through xvi.

Case Notes

Award for pain and suffering not exempt. Salem County Board of Social Services v. M.P., 93 N.J.A.R.2d (DEA) 1.

Money in guardianship bank accounts were available for children. Passaic County Board of Social Services v. M.L., 92 N.J.A.R.2d (DEA) 38.

Contribution funds accumulated under provisions of the Post-Vietnam Era Veterans Education Assistance Program were liquid assets rendering applicant ineligible for Food Stamp Program (Director's Final Decision). L.D. v. Passaic Cty. Bd. of Social Services, 7 N.J.A.R. 309 (1984).

Funds in joint checking account which constituted an accessible trust must be included as a resource in the calculation of resource limitation for Food Stamp program; denial of eligibility affirmed as resource limitation excluded; remand for factual findings in AFDC determination (Division's Final Decision). G.M. v. Mercer Cty. Bd. of Social Services, 4 N.J.A.R. 233 (1983).

Irrevocable trusts. Camden County Board of Social Services v. "M.L.", 1 N.J.A.R. 155, (1980).

Inaccessible resources. M.R. v. Camden County Welfare Board, 1 N.J.A.R. 94, (1979).

10:87-4.9 Treatment of excluded funds

(a) Any monies excluded by the provisions of N.J.A.C. 10:87-4.8 shall retain the resource exclusion for an unlimited period of time so long as such monies are kept in a separate account and not commingled in an account with nonexcluded funds.

(b) Commingled funds: The resources of students and self-employed persons that are excluded as provided in N.J.A.C. 10:87-4.8(a)15 and are commingled in an account with nonexcluded funds shall retain their exclusion for the period of time over which they have been prorated as income. All other excluded monies which are commingled in an account with nonexcluded funds shall retain their exclusion for six months from the date they are commingled. After six months from the date of commingling, all funds in the commingled account shall be counted as a resource.

Amended by R.1980 d.117, effective March 19, 1980.
See: 11 N.J.R. 517(a), 12 N.J.R. 194(b).

(b) Added first sentence; in second sentence "All other" was "Those".

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.

10:87-4.10 Value of resources

The value of a nonexempt resource (except for licensed vehicles as described in N.J.A.C. 10:87-4.12) shall be its equity value. The equity value is the fair market value less encumbrances. When necessary, the value of resources shall be determined by consulting sources knowledgeable as to the value of such resources. The source and result of any such verification shall be documented in the case record.

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.

10:87-4.11 Fair market value of licensed vehicles

(a) The fair market value of licensed automobiles, trucks, and vans will be determined by the value of those vehicles as indicated by the "Average Wholesale Value" in the most recent edition of The Red Book; Official Used Car Valuations. The CWA shall not increase the basic value of a vehicle by adding the value of low mileage or other factors such as optional equipment. If a new vehicle is not listed in the Red Book, the CWA shall determine the wholesale value by some other means such as, but not limited to, contacting a car dealer that sells that make of vehicle.

(b) Households claiming Red Book value does not apply: A household may indicate that, for some reason such as body damage or inoperability, a vehicle is in less than average condition. Any household that claims that the Red Book value does not apply to its vehicle shall be given the opportunity to acquire verification of the true value from a reliable source.

(c) Antique, custom or classic vehicles: Households shall be asked to obtain verification of the value of licensed antique, custom made, or classic vehicles if the CWA is unable to make an accurate appraisal.

(d) Vehicles equipped for the handicapped: If the vehicle is specially equipped with apparatus for the handicapped, the apparatus shall not increase the value of the vehicle. The Red Book value shall be assigned as if the vehicle were not so equipped.

(e) Vehicle no longer listed in Red Book: If a vehicle is no longer listed in the Red Book, the household's estimate of the value of the vehicle shall be accepted unless the CWA has reason to believe the estimate is incorrect. In that case, and if it appears that the vehicle's value will affect eligibility, the household shall obtain an appraisal or produce other evidence of its value, such as newspaper advertisement which indicates the amount for which similar vehicles are being sold.

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.

10:87-4.12 Treatment of licensed vehicles

(a) The value of licensed vehicles shall be excluded or counted as a resource as follows:

1. Vehicles totally excluded: The entire value of any licensed vehicle shall be excluded if the vehicle meets any one of the criteria below. If found to apply, this exclusion shall continue when the vehicle is not in use because of temporary unemployment, such as when a taxi driver is ill and cannot work, or when a fishing boat is frozen in and cannot be used.

i. Vehicle used for income producing purposes: The vehicle is used primarily (over 50 percent of the time) for income producing purposes such as, but not limited to, a taxi, truck, or fishing boat.

ii. Vehicle produces income consistent with fair market value: The vehicle annually produces income consistent with its fair market value, even if used only on a seasonal basis.

iii. Vehicle essential to employment: The vehicle is necessary for long distance travel, other than daily commuting, which is essential to the employment of a household member (or excluded individual whose resources are being considered available to the household); for example, the vehicle of a traveling salesperson or of a migrant farmworker following the work stream. A licensed vehicle which has previously been used by a self-employed household member engaged in farming, but which is no longer used over 50 percent of the time in farming because the household member has terminated his or her farming self-employment, shall continue to be excluded as a resource for one year from the date the individual terminated the self-employment from farming.

iv. Vehicle used as a home: The vehicle is used as a home and therefore excluded under N.J.A.C. 10:87-4.8(a).

v. Vehicle necessary to transport a physically disabled household member: The vehicle is necessary to transport a physically disabled household member (or excluded individual whose resources are being considered available to the household) regardless of the purpose of such transportation. This exclusion is limited to one vehicle per physically disabled household member. A vehicle shall be considered necessary for the transportation of a physically disabled household member if the vehicle is:

(1) A special type of vehicle that makes it possible to transport the disabled person (such as a van large enough to accommodate a wheelchair); or

(2) Specially equipped to meet the specific needs of the disabled person. However, the vehicle need not have special equipment or be used primarily by or for the transportation of the physically disabled household member.

vi. Property, real or personal, to the extent that it is directly related to the maintenance or use of a vehicle excluded under (a)1i, ii, or iii above. Only that portion of real property determined necessary for maintenance or use is excludable under this provision.

(1) For example, a household that owns a produce truck to earn a living may be prohibited from parking the truck in a residential area. The household may own a five-acre field and use a quarter-acre to park and/or service the truck. Only the value of the quarter-acre would be excludable under this provision. (It is possible that the entire five acres are excludable under other resource exclusions at N.J.A.C. 10:87-4.8(a).)

(b) Vehicles evaluated at fair market value: All licensed vehicles not excluded under (a)1 above shall be individually evaluated for fair market value (see N.J.A.C. 10:87-4.11) and that portion of the value which exceeds \$4,500 shall be attributed in full toward the household's resource level, regardless of any encumbrances on the vehicle. For example, a household owning an automobile with a fair market value of \$5,500 shall have \$1,000 applied to its resource level even though it still owes \$2,000 toward the purchase of the vehicle.

1. Value in excess of \$4,500: Any value in excess of \$4,500 shall be attributed to the household's resource level, regardless of the household's investment in the vehicle and regardless of whether or not the vehicle is used to transport household members to and from employment. Each vehicle shall be appraised individually. The fair market values of two or more vehicles shall be added together to reach a total fair market value in excess of \$4,500.

(c) Vehicles evaluated at equity value: Except as provided for below, the equity value of licensed vehicles and unlicensed vehicles not excluded under N.J.A.C. 10:87-4.8(a)7, 8 and 9 shall be attributed toward the household's resource level. Equity value is defined at N.J.A.C. 10:87-4.10.

(d) Vehicles not evaluated at equity value: The following vehicles shall not be evaluated at equity value:

1. Vehicles excluded by paragraph (a)1 above;

2. One licensed vehicle per household, regardless of the use of the vehicle (this vehicle shall be considered the household's "primary" vehicle); and

3. Any licensed vehicles used to transport household members (or excluded individuals whose resources are being considered available to the household) to and from employment or to and from training or education which is preparatory to employment, or to seek employment in compliance with the employment and training criteria. A vehicle customarily used to commute to and from employment shall be covered by this equity value exclusion during temporary periods of unemployment.

(e) Vehicles assigned both fair market and equity value: In the event a licensed vehicle is assigned both a fair market value in excess of \$4,500 and an equity value, only the greater of the two amounts shall be counted as a resource. For example, a second car that is not used by a household member to go to work will be evaluated for both fair market and equity values. If the fair market value is \$5,000 and the equity value is \$1,000, the household shall be credited with only the \$1,000 equity value, and the \$500 excess fair market value will not be counted.

(f) Summary: In summary, each licensed vehicle shall be handled as follows: First, it will be evaluated to determine if it is exempt as an income producer or as a home. If not exempt, it will be evaluated to determine if its fair market value exceeds \$4,500. If worth more than \$4,500, the portion in excess of \$4,500 shall be counted as a resource. The vehicle will also be evaluated to see if it is equity-exempt as the household's primary vehicle or necessary for employment reasons. If not equity-exempt, the equity value will be counted as a resource. If the vehicle has a countable market value of more than \$4,500 and also has a countable equity value, only the greater of the two amounts shall be counted as a resource.

Amended by R.1983 d.141, effective May 2, 1983.
See: 15 N.J.R. 212(a), 15 N.J.R. 692(b).

Language added clarifying what constitutes vehicles for handicap use.
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.1990 d.270, effective May 21, 1990.
See: 22 N.J.R. 139(a), 22 N.J.R. 1599(a).

In (a)1iii: added text regarding one-year resource exclusion of licensed vehicles.

10:87-4.13 Maximum allowable resources

(a) The maximum allowable resources, including both liquid and non-liquid assets of all members of the household, shall not exceed \$2,000 for the household; except that for households including a member or members aged 60 or over, such resources shall not exceed \$3,000.

(b) If the household's non-excludable resources exceed the above amounts at any point in time, the household's participation in the program shall be denied or terminated.

Emergency Amendment R.1986 d.191, effective, April 29, 1986 (operative May 1, 1986, expires June 30, 1986).
See: 18 N.J.R. 1108(a).

Resource maximum raised from \$1,500 to \$2,000.

Readoption of Emergency Amendment and Concurrent Proposal, R.1986 d.301, effective June 30, 1986.
See: 18 N.J.R. 1108(a), 18 N.J.R. 1464(b).
Amended by R.1989 d.121, effective February 21, 1989.
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).
Repealed old text and substituted new.

Case Notes

Food stamp applicant ineligible, stock given as gift. *Z.A. v. Bergen County Board of Social Services*, 94 N.J.A.R.2d (DEA) 11.

Money in guardianship bank accounts were available for children. *Passaic County Board of Social Services v. M.L.*, 92 N.J.A.R.2d (DEA) 38.

Contribution funds accumulated under provisions of the Post-Vietnam Era Veterans Education Assistance Program were liquid assets rendering applicant ineligible for Food Stamp Program (Director's Final Decision). *L.D. v. Passaic Cty. Bd. of Social Services*, 7 N.J.A.R. 309 (1984).

Funds in joint checking account which constituted an accessible trust must be included as a resource in the calculation of resource limitation for Food Stamp program; denial of eligibility affirmed as resource limitation excluded; remand for factual findings on AFDC determination (Division's Final Decision). *G.M. v. Mercer Cty. Bd. of Social Services*, 4 N.J.A.R. 233 (1983).

Proceeds from injury claim held in escrow by applicant's attorney counted as resource in total resource computation for eligibility. *M.R. v. Camden Cty. Welfare Bd.*, 1 N.J.A.R. 94 (1979).

Camden County Board of Social Services v. "M.L.", 1 N.J.A.R. 155, (1980).

10:87-4.14 Transfer of resources

At the time of application, households shall be asked to provide information regarding any resources which any household member (or excluded household member whose resources are being considered available to the household) has transferred within the three month period immediately preceding the date of application.

Case Notes

Transfer of resources by way of account withdrawal and payment of unverifiable loan on date of application to meet eligibility requirements is proper grounds for benefits denial. *"J.F." v. Middlesex Cty. Welfare Agency*, 1 N.J.A.R. 311 (1980).

10:87-4.15 Disqualification

Households which have transferred resources knowingly for the purpose of qualifying or attempting to qualify for food stamp benefits shall be disqualified for up to one year (see schedule at N.J.A.C. 10:87-4.19) from the date of discovery of the transfer. This disqualification period shall be applied if the resources are transferred knowingly in the three month period prior to application or if they are transferred knowingly after the household is determined eligible for benefits. An example of the latter would be assets which the household acquires after being certified for benefits and which are then transferred to prevent the household from exceeding the maximum resource limit.

As amended, R.1983 d.223, eff. 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, eff. 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).

Parenthetical information on excluded household members added. Amended by R.1989 d.121, effective February 21, 1989. See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

Case Notes

"J.F." v. Middlesex County Welfare Board, 1 N.J.A.R. 311, (1980).

Transfer of resources by way of account withdrawal and payment of unverifiable loan on date of application to meet eligibility requirements is proper grounds for benefits denial. "J.F." v. Middlesex Cty. Welfare Agency, 1 N.J.A.R. 311 (1980).

10:87-4.16 Transfers not subject to disqualification

(a) Eligibility for the program will not be affected by the following transfers:

1. Resources not affecting eligibility: Resources which would not otherwise affect eligibility; for example, resources consisting of excluded personal property such as furniture or money that, when added to other nonexcluded household resources, totalled less than the allowable resource limit at the time of the transfer;
2. Transfer at fair market value: Resources that are sold or traded at, or near, fair market value;
3. Transfer within household: Resources which are transferred between members of the same household (including excluded household members whose resources are being considered available to the household); or
4. Transfers for reasons other than qualifying: Resources which are transferred for reasons other than qualifying or attempting to qualify for food stamp benefits (e.g., a parent placing funds into an educational trust fund, as in N.J.A.C. 10:87-4.8(a)14.).

As amended, R.1983 d.223, eff. 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, eff. 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).

Parenthetical information added concerning excluded household members. Amended by R.1989 d.121, effective February 21, 1989. See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

Case Notes

Transfer of resources by way of account withdrawal and payment of unverifiable loan on date of application to meet eligibility requirements is proper grounds for benefits denial. "J.F." v. Middlesex Cty. Welfare Agency, 1 N.J.A.R. 311 (1980).

10:87-4.17 Notice to applicant household

In the event that the CWA establishes that an applicant household has knowingly transferred resources for the purpose of qualifying or attempting to qualify for food stamp benefits, the household shall be sent a notice of denial explaining the reason for the length of disqualification. The period of disqualification shall begin in the month of application.

Case Notes

Transfer of resources by way of account withdrawal and payment of unverifiable loan on date of application to meet eligibility requirements is proper grounds for benefits denial. "J.F." v. Middlesex Cty. Welfare Agency, 1 N.J.A.R. 311 (1980).

10:87-4.18 Notice to participating household

If the household is participating at the time of the discovery of the transfer, a notice of adverse action explaining the reason for the length of disqualification shall be sent. The period of disqualification shall be made effective with the first allotment to be issued after the notice of adverse action period has expired, unless the household has requested a fair hearing and continued benefits.

Case Notes

Transfer of resources by way of account withdrawal and payment of unverifiable loan on date of application to meet eligibility requirements is proper grounds for benefits denial. "J.F." v. Middlesex Cty. Welfare Agency, 1 N.J.A.R. 311 (1980).

10:87-4.19 Period of disqualification

The length of the disqualification period shall be based on the amount by which nonexempt transferred resources, when added to other countable resources, exceed the allowable limits. For example, if a one-person, non-elderly household with \$1,750 in a bank account transferred ownership of a car worth \$5,000, \$250.00 of that transfer would be considered in determining the period of ineligibility because the first \$4,500 of the car's value is excluded and an additional \$250.00 of the transferred asset can be applied toward the \$2,000 resource limit. The following chart shall be used to determine the period of disqualification:

Disqualification Period Chart

Amount in Excess of the Resource Limit	Period of Household Disqualification
\$ 0.01 - \$ 249.99	1 month
250 - 999.99	3 months
1,000 - 2,999.99	6 months
3,000 - 4,999.99	9 months
5,000 and over	12 months

Amended by R.1982 d.473, effective January 3, 1983. See: 14 N.J.R. 1037(a), 15 N.J.R. 34(a).

Resource limits changed from \$1,500 to \$1,250 and from \$1,750 to \$1,500.

Amended by R.1986 d.301, effective July 21, 1986.

See: 18 N.J.R. 1464(b).

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.

Case Notes

Transfer of resources by way of account withdrawal and payment of unverifiable loan on date of application to meet eligibility requirements is proper grounds for benefits denial. "J.F." v. Middlesex Cty. Welfare Agency, 1 N.J.A.R. 311 (1980).

10:87-4.20 Resources of nonhousehold members

(a) The resources of nonhousehold members, as defined in N.J.A.C. 10:87-2.3(a) shall be handled as outlined in N.J.A.C. 10:87-7.15.

(b) The resources of excluded members, as defined in N.J.A.C. 10:87-2.3(c) shall be handled as outlined in N.J.A.C. 10:87-7.14 and 7.15, as appropriate.

New Rule, R.1989 d.121, effective February 21, 1989.
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

SUBCHAPTER 5. FINANCIAL ELIGIBILITY; INCOME

10:87-5.1 Applicability

(a) All households which do not contain an elderly or disabled member, shall meet both the net and gross income eligibility standards set forth in N.J.A.C. 10:87-12.3 and 12.4, respectively, in order to be eligible for program participation, with the exception of (b) below. Households which contain an elderly or disabled member shall meet the net income eligibility standards in N.J.A.C. 10:87-12.3. Net food stamp income shall be determined in accordance with procedures contained in this subchapter.

(b) Households that are categorically eligible as defined in N.J.A.C. 10:87-2.36 and 2.39 do not have to meet either the gross or net income eligibility standards.

Amended by R.1984 d.17, effective February 6, 1984.
See: 15 N.J.R. 1821(a), 16 N.J.R. 246(a).

Reference to meeting net and gross income eligibility.
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 (a): deleted language "including those in which all members are recipients of public assistance" describing households.

Added text with reference to exception of subsection (b).
Amended by R.1993 d.62, effective February 1, 1993.
See: 24 N.J.R. 3207(b), 25 N.J.R. 584(a).

In (b), added N.J.A.C. 10:87-2.39.

10:87-5.2 Responsibilities regarding the reporting of income

(a) Responsibilities for the reporting of income shall be as follows:

1. **Applicant Responsibility:** At the time of certification or recertification, the applicant shall report all income currently being received by all members of the household and any income changes or additions which the household anticipates during the course of the certification period. The applicant also has the responsibility of reporting actual income changes during the certification period.

2. **Responsibility of CWA:** The CWA shall determine that the total income to the household, as reported by the applicant during the certification or recertification interview, is completely identified on the FSP-901, and in sufficient detail to permit verification (see also N.J.A.C. 10:87-2.20(b)).

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 (a)2: revised reference to N.J.A.C. 10:87-2.20(b).

Case Notes

AFDC recipient whose benefits were terminated or suspended for month in which she received five paychecks entitled to continued Medicaid assistance. Monmouth Cty. Bd. of Social Services v. A.R., 194 N.J.Super. 4, 475 A2d 1266 (App.Div.1984).

10:87-5.3 Income defined

Household income shall be defined as all income from whatever source unless such income is specifically excluded under the provisions of N.J.A.C. 10:87-5.9.

Amended by R.1989 d.121, effective February 21, 1989.
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

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Food Stamps. Judith Nallin, 137 N.J.L.J. No. 11, 48 (1994).

10:87-5.4 Earned income

(a) For the purposes of determining net food stamp income, earned income shall include:

1. **Employee compensation:** All wages and salaries received as compensation for services performed as an employee.

2. **Combined income of household members and non-household members:** When the earned income of one or more household members and the earned income of a nonhousehold member are combined into one wage, the income of the household members shall be determined as follows:

i. If the household's share can be identified, the CWA shall count that portion as earned income to the household; or

ii. If the household's share cannot be identified, the CWA shall prorate the earned income among those persons it was intended to cover and count that prorated share as earned income to the household.

3. **Self-employment income:** The gross income from a self-employment enterprise, including the total gain from the sale of any capital goods or equipment related to the business (see N.J.A.C. 10:87-5.9(a)14).

i. **Rental property:** Ownership of rental property shall be considered a self-employment enterprise. However, income derived from the rental property shall

be considered earned income only if a member of the household is actively engaged in the management of the property for an average of at least 20 hours per week (see also N.J.A.C. 10:87-5.5(a)3).

ii. Income from roomer or boarder: Payments received from a roomer or boarder shall be considered self-employment income.

4. Training allowances: Training allowances from vocational and rehabilitative programs recognized by Federal, State, or local governments, such as the Work Incentive Program (WIN) or Realizing Economic Achievement (REACH) to the extent they are not a reimbursement (see N.J.A.C. 10:87-5.9(a)9iii(1)).

5. Payments to volunteers: Payments to volunteers under Title I (VISTA, University Year for Action, and so forth) of the Domestic Volunteer Service Act of 1973 (P.L. 93-113) shall be considered earned income and subject to the earned income deduction specified in N.J.A.C. 10:87-5.10(a)2, excluding payments to households as set forth in N.J.A.C. 10:87-5.9(a)15iii.

6. Earnings to participants in on-the-job training programs under JTPA, provided that the participant is not under 19 years of age and under the parental control of another adult member and the programs are administered under Section 204(5), Title II, of JTPA. JTPA participants under 19 years of age who are under the parental control of another adult household member shall have their JTPA earnings treated as excluded income in accordance with N.J.A.C. 10:87-5.9(a)15xi.

Amended by R.1983 d.223, effective May 3, 1983.

See: 15 N.J.R. 629(a), 15 N.J.R. 1033(a).

Originally adopted as an Emergency Rule, R.1983 d.116, eff. 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).

Combined income of household and nonhousehold members explained at (a)2; 2 and 3 renumbered 3 and 4.

Amended by R.1984 d.17, effective February 6, 1984.

See: 15 N.J.R. 1821(a), 16 N.J.R. 246(a).

(a)5; payment to volunteers added.

Correction: Added material missing in (a) and (a)5.

See: 18 N.J.R. 1414(a).

Emergency Amendment and Concurrent Proposal, R.1986 d.297, effective June 30, 1986 (operative July 1, 1986).

See: 18 N.J.R. 1490(a).

(a)1i deleted from section.

Readopted Concurrent Proposal, R.1986 d.395, effective October 6, 1986.

See: 18 N.J.R. 1490(a), 18 N.J.R. 2015(c).

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.1990 d.270, effective May 21, 1990.

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

In (a)6: added text to specify programs administered under JTPA, Section 204(5).

Case Notes

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).

10:87-5.5 Unearned income

(a) For the purposes of determining net food stamp income, unearned income shall include, but not be limited to:

1. Assistance payments: Assistance payments from Federal or federally aided public assistance programs such as SSI or AFDC; and General Assistance program payments; or other assistance programs based on need. Such assistance is considered to be unearned income even if provided in the form of a vendor payment to a third party on behalf of the household, unless specifically exempt as countable income under the provisions of N.J.A.C. 10:87-5.9(a)1 and 2.

i. All assistance payments from programs which require, as a condition of eligibility, the actual performance of work such as the General Assistance Employability Program (GAEP), without compensation other than the assistance payments themselves, shall be considered unearned income.

2. Annuities, pension, Social Security, and other benefits: Annuities, pensions, retirement benefits, veteran's benefits, old-age, survivors, or disability benefits, workman's compensation, unemployment compensation, Social Security benefits, strike benefits, and foster care payments for children or adults provided that the foster child or adult is included in the household;

3. Income from rental property: Gross income (minus the cost of doing business) derived from rental property in which a household member is not actively engaged in management of the property at least 20 hours a week (see N.J.A.C. 10:87-5.4(a)3i);

4. Educational grants and loans: Scholarships, educational grants, deferred payment loans for education, veteran's educational benefits, fellowships and the like in excess of amounts excluded in N.J.A.C. 10:87-5.9(a)7;

5. Support and alimony: Support and alimony payments made directly to the household from nonhousehold members;

6. Payments from government-sponsored programs: Payments from Federal, State or local government-sponsored programs which can be construed to be a gain or benefit;

7. Dividends, interest, and royalties: Payments in the form of dividends, interest, and royalties;

8. Trust withdrawals and dividends: Monies which are withdrawn or dividends which are or could be received by a household from trust funds which are considered to be excludable resources (see N.J.A.C. 10:87-4.8(a)14).

i. Trust withdrawals: Trust withdrawals shall be considered income in the month received unless excluded in accordance with N.J.A.C. 10:87-5.9;

ii. Trust dividends: Dividends which the household has the option of either receiving as income or reinvesting in the trust are to be considered income in the month they become available to the household unless excluded in accordance with N.J.A.C. 10:87-5.9.

9. Other direct money payments: All other direct money payments from any source which can be construed to be a gain or benefit to the household;

10. Deemed income: Income deemed to an alien from his or her sponsor in accordance with N.J.A.C. 10:87-7.18.

Amended by R.1983 d.121, effective April 4, 1983.
See: 15 N.J.R. 247(a), 15 N.J.R. 625(b).

Originally adopted as an Emergency Rule, R.1983 d.38, eff. January 31, 1983. The amendment was pursuant to the Omnibus Budget Reconciliation Act of 1982 (P.L. 97-253) and the Food Stamp and Commodity Distribution Amendments of 1981 (P.L. 97-98, Title 13). Amended by R.1983 d.141, effective May 2, 1983.
See: 15 N.J.R. 212(b), 15 N.J.R. 692(b).

Trust withdrawal and dividends added to list of unearned income at (a)8; 8 renumbered 9.
Emergency Amendment and Concurrent Proposal, R.1986 d.297, effective June 30, 1986 (operative July 1, 1986).
See: 18 N.J.R. 1490(a).

(a)1i added.
Readopted Concurrent Proposal, R.1986 d.395, effective October 6, 1986.

See: 18 N.J.R. 1490(a), 18 N.J.R. 2015(c).
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.1991 d.247, effective May 6, 1991.
See: 23 N.J.R. 179(a), 23 N.J.R. 1412(b).

In (a)2: added phrase, "... provided that the foster ... in the household;"

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) Income of individual excluded for intentional program violation or refusal to comply with a work registration requirement: The earned or unearned income of an individual disqualified from the household for intentional program violation as set forth in 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. 10:87-7.14(b)).

(b) Income of individual excluded for other causes: 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. 10:87-20.1(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. 10:87-2.21(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 in N.J.A.C. 10:87-7.14.

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 ...".

10:87-5.7 Treatment of recovery moneys and Title IV-D child support payments

(a) Moneys used for restitution of overpayments: Moneys withheld from earned income, or other income source, or moneys received from any income source (except as specified in (b) below) which are voluntarily or involuntarily returned to repay a prior overpayment that is not excludable under N.J.A.C. 10:87-5.9 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) Moneys used for recovery of overpayments caused by intentional noncompliance with requirements of other programs: Moneys withheld from a Federal, State, or local assistance grant such as AFDC, GA or SSI, for the purpose of recovering a prior overpayment which resulted from recipient fraud or intentional failure to comply with the other program's requirements, shall be included as income.

1. For the purposes of this provision, intentional non-compliance shall be defined as follows:

i. AFDC, SSI and GA programs: In the AFDC, SSI, and GA programs, intentional noncompliance shall be an action determined to be fraud pursuant to a judicial determination.

ii. Other means-tested programs: For all other programs, intentional noncompliance shall be determined by such other program in accordance with that program's governing regulations and procedures.

(c) Benefit determination in cases with recovery due to fraud or intentional noncompliance: The CWA shall ensure that there is no increase in food stamp benefits to households on which a penalty resulting in a decrease in assistance payments has been imposed for fraud or intentional failure to comply with a Federal, State, or local welfare program such as AFDC, SSI or GA. Procedures for determining food stamp benefits when there is such a decrease in assistance are as follows:

1. When a recipient's benefits under a Federal, State or local assistance program are decreased to recover a prior overpayment caused by fraud or intentional non-compliance, the CWA shall identify that portion of the recovery which is due to intentional noncompliance.

i. For AFDC, SSI and GA, the first collections after the judicial determination of fraud shall be considered the amount of recovery for fraud.

ii. For other programs, the penalty shall be that portion of the decrease attributed to the repayment of benefits overissued as a result of the household's intentional noncompliance.

2. The CWA shall count the amount of the recovery as income in calculating the food benefit.

(d) Child support under Title IV-D: Child support payments received by recipients which must be transferred to the CWA pursuant to Title IV-D of the Social Security Act to maintain AFDC eligibility shall not be counted as income except for the following:

1. Disregarded child support payments: An amount up to the first \$50.00 per month of child support payments received for an AFDC family through the child support and paternity (Title IV-D) process is disregarded in the AFDC program and is paid to the AFDC 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.

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:

10:87-5.8 Income exclusions

Income which is classified as an exclusion shall not be considered for purposes of determining net 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).

10:87-5.9 Identification of income exclusions

(a) Only the following shall be excluded from household income; no other income shall be excluded.

1. Nonmonetary gain or benefit: Any gain or benefit which is not in the form of money payable directly to the household shall be excluded including:

i. In-kind benefits: Nonmonetary or in-kind benefits such as meals, clothing, public housing or produce from a garden;

2. Vendor payments: A payment made in money on behalf of a household shall be considered a vendor payment when a person or organization outside of the household uses its own funds to make a direct payment to either the household's creditors or a person or organization providing a service to the household. For example, if a relative or friend who is not a household member pays the household's rent directly to the landlord, the payment is considered a vendor payment and is not counted as income to the household.

i. Rent and mortgage payments made by government agencies: Rent or mortgage payments made to landlords or mortgagees by the Department of Housing and Urban Development (HUD), or by any State or local housing authority, are vendor payments and are excluded.

ii. Child care payments by government agency: Payments by a government agency to a child care institution to provide day care for a household member are excluded as vendor payments.

iii. Lifeline utility credit: Payments from the Lifeline Credit Program (LCP) to assist the aged and disabled with their utility bills are excluded as vendor payments.

iv. Money payments to the household: Payments of money which are not made to a third party, but are made directly to a household, are counted as income and are not excluded as a vendor payment.

v. Moneys otherwise payable to the household: Moneys which are legally obligated and otherwise payable to the household but which are diverted by the provider of the payment to a third party for a household expense shall be counted as income and not excluded as a vendor payment. The distinction is whether or not the person or organization making the payment on behalf of the household is using funds which otherwise would have to be paid to the household. Such funds include wages earned by a household member and therefore owed to the household, a public assistance grant to which the household is legally entitled, support and alimony payments in amounts which legally must be paid to a household member, and student educational assistance that is provided on behalf of the household to a third party for living expenses.

(1) Funds owed to the household: if any employer, agency, former spouse, or other person who owes these funds to a household diverts them instead to a third party to pay for a household expense, these payments shall be counted as income to the household. Diverted educational assistance payments made to the household for living expenses shall also be counted.

(2) Funds not owed to the household: If an employer, agency, former spouse, or other person makes payments for household expenses to a third party from funds not owed to the household, these payments shall be considered as vendor payments and thus excluded.

(A) Example A: Wages earned by the household member that are garnished or diverted by an employer and paid to a third party for a household's expenses, such as rent, shall be considered income. However, if the employer pays a household's rent directly to the landlord in addition to paying the household its regular wages, this rent payment shall be considered a vendor payment and thus excluded. In addition, if the employer provides housing to an employee, the value of the housing shall not be counted as income.

(B) Example B: All or part of a public assistance grant which would normally be provided in a money payment to the household, but which was diverted to third parties or to a protective payee for purposes such as managing a household's expenses, shall be considered income to the household. However, payments by the CWA that would not normally be provided in a money payment to the household, and that are over and above normal public assistance grants, shall be considered as a vendor payment and thus excluded if they are made directly to a third party for a household expense. This rule applies even if the household has the option of receiving a direct cash payment.

(C) Example C: Money deducted or diverted from a court-ordered support or alimony payment (or other binding written support or alimony agreement) to a third party for a household expense shall be considered as income. However, payments specified by the court order or other legally binding agreement to go directly to the third party rather than to the household, and support payments not required by a court order or other legally binding agreement (including payments in excess of the amount specified in a court order or written agreement) which are paid to a third party rather than the household shall be considered as a vendor payment and thus excluded, even if the household agrees to the arrangement.

vi. An emergency public or general assistance payment provided to a third party on behalf of a household containing a migrant or seasonal farmworker shall be treated as an excluded vendor payment, provided that the farmworker is in the jobstream.

3. Utility allowance payments, rebates, and reimbursements to the individual, the utility or the landlord are excluded from countable income.

4. An AFDC or GA payment which is not made directly to the household, but paid to a third party on behalf of the household to pay a household expense, shall be considered an excludable vendor payment and not counted as income to the household if the payment is for:

i. Medical assistance;

ii. Child care assistance;

iii. Energy assistance (as defined in N.J.A.C. 10:87-5.9(a)15viii); or

iv. Housing assistance payments made to a third party for a household residing in temporary housing if the latter unit lacks facilities for the preparation and cooking of hot meals and/or refrigerated food storage. Such vendor payments shall be excluded under this provision if paid to the housing provider during the period from October 20, 1987 to September 30, 1989.

5. Cash donations based on need which were received on or after February 1, 1988 from private nonprofit charitable organizations that do not exceed \$300.00 in a Federal fiscal year quarter.

6. Infrequent or irregular income: Any income in the certification period which is received too infrequently or irregularly to be reasonably anticipated, but not in excess of \$30 in a calendar quarter, shall be excluded.

7. Educational grants and loans: Educational loans on which payment is deferred, grants, scholarships, fellowships, veteran's educational benefits and the like shall be excluded to the extent that they are used for tuition and mandatory school fees of post-secondary education, including correspondence schools at that level, or a school

for the physically or mentally handicapped at any level (see N.J.A.C. 10:87-5.11).

8. Loans: All loans, including loans from private individuals as well as commercial institutions, are excluded from income. Additionally, deferred payment educational loans that provide income assistance beyond that used for tuition and mandatory fees shall be excluded if the lender/financial aid office of the school specifically designates portions of the loan as educational expenses rather than living expenses (see N.J.A.C. 10:87-2.21(d)).

9. Reimbursements: Reimbursements for past or future expenses shall be excluded to the extent that they do not exceed actual expenses and do not represent a gain or benefit to the household. Reimbursements for normal household living expenses such as rent or mortgage payments, personal clothing, or food eaten at home are a gain or benefit are not excluded.

i. Identifiable expense: In order to be excluded, reimbursements must be provided specifically for an identified expense other than normal living expenses and used for the purpose intended. When a reimbursement, including a flat allowance, covers multiple expenses, each expense does not have to be separately identified as long as none of the reimbursement covers normal living expenses.

ii. Amounts in excess of expenses: That amount of a reimbursement which exceeds the actual incurred expenses shall be counted as unearned income. However, reimbursements shall not be considered to exceed actual expenses unless the provider or the household indicates the amount is excessive.

iii. Examples of excludable reimbursements: Examples of excludable reimbursements which are not considered to be a gain or benefit to the household are:

(1) Reimbursements or flat allowances for job or training related expenses such as travel, per diem, uniforms, and transportation to and from the job or training site. Reimbursements which are provided over and above the basic wages for these expenses are excluded; however, these expenses, if not reimbursed, are not otherwise deductible. Reimbursements for travel expenses incurred by migrant workers are also excluded.

(2) Reimbursements for out-of-pocket expenses of volunteers incurred in the course of their work.

(3) Medical or dependent care reimbursements.

(4) Non-Federal reimbursements or allowances to students for specific educational expenses, such as travel or books, but not allowances for living expenses such as food, rent, or clothing. Portion of a loan, grant, or scholarship must be specifically designated by the grantor for educational expenses, rather than living expenses, to be excluded as a reimbursement.

(5) Reimbursements received by households to pay for services provided by Title XX of the Social Security Act (social services).

10. Money for care and maintenance of a third-party beneficiary: Money received and used for the care and maintenance of a third-party beneficiary who is not a household member shall be excluded.

i. Payment intended for both household and non-household members: If the intended beneficiaries of a single payment are both household and nonhousehold members, any identifiable portion of the payment intended and used for the care and maintenance of the nonhousehold member shall be excluded. If the nonhousehold member's portion cannot be readily identified, the payment shall be evenly prorated among intended beneficiaries and the exclusion applied to the nonhousehold member's pro rata share or the amount actually used for the nonhousehold member's care and maintenance, whichever is less.

ii. A foster care payment shall not be considered as income to the household when the foster child for whom that payment is intended is treated as a boarder, even when the household receives the payment directly.

11. Earned income of a student under 18 years of age: Earned income (as defined in N.J.A.C. 10:87-5.4) of students (as defined in N.J.A.C. 10:87-10.7(b)3) under 18 years of age shall be excluded. This exclusion will continue to apply during temporary interruptions in school attendance due to semester or vacation breaks; provided the child's enrollment will resume following the break.

i. Child's earnings combined with other household member's: If the child's earnings or amount of work performed cannot be differentiated from that of other household members, the total earnings shall be prorated equally among the working members and the child's pro rata share excluded.

ii. Parental control: Individuals are considered children for the purposes of this provision if they are under the parental control of another household member.

12. Income of an ineligible student: The income, either earned or unearned, of an ineligible student as defined in N.J.A.C. 10:87-2.3(a)2, shall be excluded.

13. Nonrecurring lump-sum payments: Moneys received in the form of nonrecurring lump-sum payments including, but not limited to, income tax refunds, rebates, or credits; retroactive lump-sum Social Security, SSI, public assistance, railroad retirement benefits, or other payments; lump-sum insurance settlements; or refunds of security deposits on rental property or utilities, shall be excluded. Such payments will be counted as resources in the month received in accordance with N.J.A.C. 10:87-4.3(a), unless excluded by N.J.A.C. 10:87-4.8(a)17.

14. The cost of producing self-employment income: The cost of producing self-employment income shall be excluded. The procedures for computing the cost of producing self-employment income are described in N.J.A.C. 10:87-7.6.

15. Income excluded by Federal law: Any income that is specifically excluded by any other Federal statute from consideration as income for the purpose of determining eligibility for the Food Stamp Program shall be excluded. The following qualify under this provision:

i. Federal relocation reimbursements: Reimbursements from the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 (Public Law 91-646).

ii. Alaska native claims: Payments received under the Alaska Native Claims Settlement Act (Public Law 92-203).

iii. Payments to volunteers: Any payment to volunteers under Title II (RSVP, Foster Grandparents, and so forth) of the Domestic Volunteer Services Act of 1973 (Public Law 93-113), as amended, shall be excluded. Payments to volunteers under Title I of that Act (including payments from such Title I programs as VISTA, University Year for Action, and the Urban Crime Prevention Program) shall be excluded for those individuals receiving food stamps or public assistance at the time they joined the Title I program, except that households which were receiving an income exclusion for VISTA or other Title I subsistence allowance at the time of conversion to the Food Stamp Act of 1977, shall continue to receive an income exclusion for VISTA for the length of their volunteer contract in effect at the time of conversion. Temporary interruptions in food stamp participation shall not alter the exclusion once the initial determination has been made. New applicants who were not receiving public assistance or food stamps when they joined VISTA shall have these volunteer payments included as earned income.

iv. Income from certain Indian lands: Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (Public Law 94-114).

v. Payments of relocation assistance to members of the Navajo and Hopi Tribes under Public Law 93-531.

vi. Earned income tax credits:

(1) Earned income tax credits received as a result of Public Law 95-600, the Revenue Act of 1978, which are received before January 1, 1980; and

(2) Earned income tax credits made as advance payments which are received on or after January 1, 1989.

vii. Payments or allowances made under any Federal, State, or local law for the purpose of energy assis-

tance. In order to qualify for this exclusion, the State or locally authorized payments, allowances, or tax credits must be approved by the FNS. The State programs of Lifeline, Tenants Lifeline Assistance Program (TLAP), Home Energy Assistance, and the food stamp energy disregard portion of AFDC and GA payments qualify for this exclusion.

viii. Income from certain Indian funds: Income derived from disposition of funds to the Grand River Band of the Ottawa Indians (Public Law 95-540).

ix. Payments from Indian Claims Commission: Payments received by the Confederated Tribes and Bands of the Yakima Indian Nation and the Apache Tribe of the Mescalero Reservation from the Indian Claims Commission as designated under Public Law 94-433.

x. Payments from Maine Indian Claims Settlement: Payments to the Passamoquaddy Tribe and the Penobscot Nation or any of their members received pursuant to the Maine Indian Claims Settlement Act of 1980 (Public Law 96-420).

xi. Job Training Partnership Act: Any allowances or payments provided to individuals participating in programs under the Job Training Partnership Act of 1982 (Public Law 97-300). Earnings provided to individuals participating under JTPA on-the-job training programs shall be excluded if the participants are under 19 years of age and are under the parental control of another adult household member, and the programs are administered under Section 204(5), Title II, of JTPA.

xii. Any allowances, earnings or payments provided to individuals under the Senior Community Service Employment Program (SCSEP) enacted by the Older Americans Act Amendments of 1987 (Public Law 100-175). Programs funded by Title V moneys include, but are not limited to, Green Thumb, Inc., National Council on Aging, Inc. (NCOA), National Council of Senior Citizens' (NCSC) Senior Aide Program, and United Progress, Inc. (UPI).

xiii. Any educational assistance funded in whole or in part under Title IV of the Higher Education Act Amendments of 1986 (including education or dependent care benefits made under the Carl D. Perkins Vocational Act) or funded by the Bureau of Indian Affairs (BIA) Higher Education Grant Program to the extent it is used for tuition, mandatory school fee, and other specified costs of education (see N.J.A.C. 10:87-5.11).

xiv. Payments received under the Civil Liberties Act of 1988 (P.L. 100-383).

xv. Amounts deemed necessary for the fulfillment of a Plan for Achieving Self-Support (PASS) under Title XVI of the Social Security Act.

xvi. Transitional child care payments made under the Family Support Act of 1988 (JOBS).

xvii. Payments made under the Radiation Exposure Compensation Act (P.L. 100-426).

xviii. The child care payments which are deducted from earned income when calculating the household's AFDC grant. This disregard shall not be greater than the remaining earned income after the application of the work expense and "30 $\frac{1}{2}$ " disregard (see N.J.A.C. 10:82-2.8(a)2 and 3).

Amended by R.1980 d.117, effective March 19, 1980.

See: 11 N.J.R. 517(a), 12 N.J.R. 194(b).

(a)9: "exempted" changed to "excluded".

(a)11vi: "Title IV . . ." was "Youth Employment and Demonstration Project Act of 1977"; deleted reference to nonexclusion of CETA and Adults Conservation Corps payments.

Added (a)11viii.

Amended by R.1981 d.97, effective April 9, 1981.

See: 13 N.J.R. 96(c), 13 N.J.R. 228(a).

(a)9 added.

Renumber (a)9-11 as 10-12.

Amended by R.1984 d.17, effective February 6, 1984.

See: 15 N.J.R. 1821(a), 16 N.J.R. 246(a).

References to P.L. 91-646, P.L. 92-203, P.L. 93-113, P.L. 93-114 and income from certain Indian funds and communications, added.

Amended by R.1985 d.707, effective January 21, 1986 (operative February 1, 1986).

See: 17 N.J.R. 2521(b), 18 N.J.R. 193(b).

(a)12xii added.

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.1989 d.464, effective September 5, 1989.

See: 21 N.J.R. 1636(a), 21 N.J.R. 2790(a).

Exclusion for earned income tax payments added.

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

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

In (a)2: added text at vi.

In (a)15: deleted iv., "Payments from certain youth projects", and renumbered xiii. through xv. as xii. through xiv.

Amended by R.1990 d.565, effective November 19, 1990.

See: 22 N.J.R. 2219(a), 22 N.J.R. 3486(a).

Income exclusions clarified in accordance with 7 CFR 273.9(c).

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

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

Revised text in (a)3 and (a)15xiv, deleted HUD reference in (a)3 rule text.

Amended by R.1993 d.62, effective February 1, 1993.

See: 24 N.J.R. 3207(b), 25 N.J.R. 584(a).

In (a)15, added xv through xviii.

Law Review and Journal Commentaries

Food Stamps.

Judith Nallin, 137 N.J.L.J. No. 11, 48 (1994).

Steven P. Bann, 137 N.J.L.J. No. 15, 83 (1994).

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).

Exclusion for in-kind benefit for computing food stamp eligibility; reduced rent. *Maisonet v. New Jersey Dept. of Human Services, Div. of Family Development*, 274 N.J.Super. 228, 643 A.2d 1038 (A.D.1994), certification granted 138 N.J. 265, 649 A.2d 1286, affirmed 140 N.J. 214, 657 A.2d 1209.

Education grant funds used for educational expenses beyond tuition, mandatory fees, books and supplies cannot be included in calculating recipient's income for Food Stamp allotment purposes; earmarking of funds provided recipient paid by grantors directly to college for disbursement. *Murray v. Dept. of Human Services*, 177 N.J.Super. 467, 427 A.2d 74 (App.Div.1981), certiorari denied 87 N.J. 412, 434 A.2d 1088 (1981).

Child support payments taken from earnings; household income to determine food stamp eligibility. *Mercer County Welfare Agency v. J.S.*, 94 N.J.A.R.2d (DEA) 15.

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.

Child support deducted from unemployment benefits not household income. *Mercer County Welfare Agency V.I.C.*, 92 N.J.A.R.2d (DEA) 50.

Contribution funds accumulated under provisions of the Post-Vietnam Era Veterans Education Assistance Program were liquid assets rendering applicant ineligible for Food Stamp Program (Director's Final Decision). *L.D. v. Passaic Cty. Bd. of Social Services*, 7 N.J.A.R. 309 (1984).

Unless educational assistance grants are specifically earmarked by the grantor, only that portion of a grant paying for tuition and mandatory-fee 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 DYFS grant is not a vendor payment, but is income for Food Stamp income determination purposes. *M.D. v. Passaic Cty. Bd. of Social Services*, 3 N.J.A.R. 366 (1981).

Non-recurring lump sum payments. *M.R. v. Camden County Welfare Board*, 1 N.J.A.R. 94 (1979).

10:87-5.10 Income deductions

(a) Deductions from income will be allowed only for the following expenses of the household:

1. Standard deduction: The standard deduction, specified at N.J.A.C. 10:87-12.1(a), shall be deducted from income, whether earned or unearned.

2. Work allowance deduction: An amount equal to 20 percent of earned income, as defined in N.J.A.C. 10:87-5.4, after application of income exclusions in N.J.A.C. 10:87-5.9, shall be deducted.

3. Excess medical deduction: That portion of medical expenses in excess of \$35.00 per month, excluding the cost of special diets, incurred by any household member who is elderly or disabled as defined in N.J.A.C. 10:87-2.38. Spouses or other persons (that is, essential persons) receiving benefits as dependents of the SSI or disability and/or blindness recipient are not eligible to receive this deduction. Persons receiving "emergency" SSI benefits based on presumptive eligibility are eligible for this deduction.

i. Allowable medical costs: The following items are allowable medical costs:

(1) Medical and dental care: Medical and dental care including psychotherapy and rehabilitation services provided by a licensed practitioner authorized by State law or other qualified health professional;

(2) Hospitalization: Hospitalization or outpatient treatment, nursing care, and nursing home care including payments by the household for an individual who was a household member immediately prior to entering a hospital or nursing home provided by a facility recognized by the State;

(3) Prescription drugs: Prescription drugs when prescribed by a licensed practitioner authorized under State law and other over-the-counter medication (including insulin) when approved by a licensed practitioner or other qualified health professional; in addition, costs of medical supplies, sick-room equipment (including rental) or other prescribed equipment are deductible;

(4) Health and hospital insurance: Health and hospitalization insurance policy premiums. When policies include individuals who are not eligible for a medical deduction, only that portion of the premiums which covers the individual(s) eligible for the deduction shall be deductible. If that portion is not identifiable, then a prorated share may be used to determine the allowable amount (see N.J.A.C. 10:87-7.14(b)). This deduction only applies when the policy holder is a member of the eligible household. The costs of health and accident policies such as those payable in lump-sum settlements for death or dismemberment or income maintenance policies such as those that continue mortgage or loan payments while the beneficiary is disabled are not deductible;

(5) Medicare premiums: Medicare premiums related to coverage under title XVIII of the Social Security Act;

(6) Dentures, hearing aids, and prosthetics: Dentures, hearing aids, and prosthetics;

(7) Seeing eye or hearing dog: Securing and maintaining a seeing eye or hearing dog including the cost of dog food and veterinarian bills;

(8) Eye glasses: Eye glasses prescribed by a physician skilled in eye disease or by an optometrist;

(9) Transportation and lodging: Reasonable cost of transportation and lodging to obtain medical treatment or services;

(10) Attendant care: Maintaining an attendant, homemaker, home health aid, housekeeper, or child care services, necessary because of age, infirmity, or illness. In addition, an amount equal to the one person coupon allotment shall be deducted if the household furnishes the majority of the attendant's meals. The allotment for this meal related deduction shall be that in effect at the time of initial certification. The CWA shall update the allotment amount no later than the next scheduled recertification. It is not necessary for the CWA to update this

deduction at the time of the annual allotment adjustment. If a household incurs attendant care costs that could qualify under both the medical deduction and dependent care deduction, the CWA shall treat the cost as a medical expense.

4. Dependent care deduction: Payments for the actual costs for the care of a child or other dependent when necessary for a household member to accept or continue employment, seek employment in compliance with the job-search criteria (or an equivalent effort by those not subject to job-search), or to attend training or pursue education which is preparatory to employment, shall be deducted. The amount of this deduction shall be the actual cost of such care, but shall not exceed \$160.00 per each dependent for whom the household pays dependent care.

i. Child care payments which the CWA issues directly to the household's child care provider shall not qualify the household for the dependent care deduction.

ii. Households which pay child care expenses are entitled to the dependent care deduction, even when child care is disregarded from the AFDC grant when determining the countable AFDC grant for food stamp purposes (see N.J.A.C. 10:87-5.9(a)15xviii).

5. Shelter cost deduction: Monthly shelter costs in excess of 50 percent of the household's income after all other deductions in (a)1, 2, 3, and 4 above have been allowed, shall be deducted. However, in no event shall the shelter deduction exceed the amount in N.J.A.C. 10:87-12.1(b) unless the household contains a member who is elderly or disabled as defined in N.J.A.C. 10:87-2.38. These households shall receive an excess shelter deduction for the monthly costs that exceed 50 percent of the household's monthly income after all other applicable deductions. Households receiving Title II disability payments for dependents of a disabled individual are not eligible for the unlimited excess shelter deduction unless the disabled individual is a member of the household.

i. Allowable shelter costs: Only the following shall be considered in determining the shelter cost deduction:

(1) Continuing payments: Continuing charges for the shelter occupied by the household, including rent mortgage, or other continuing charges leading to the ownership of the shelter, such as loan repayments for the purchase of a mobile home, including interest on such payments.

(2) Property taxes and insurance: Property tax assessments and insurance on the structure itself, but not separate costs for insuring furniture or personal belongings. If the separate costs for furniture and personal belongings are not identifiable, the entire cost of the insurance is deductible.

(3) Utilities: The costs of heating and cooking fuel; cooling and electricity; water and sewage; garbage and trash collection fees; the basic service fee, plus tax, for one telephone (the uniform telephone rate is found in N.J.A.C. 10:87-12.1(c)) and fees charged by the utility provider for initial installation of the utility. One-time deposits shall not be included as shelter costs.

ii. Shelter costs of unoccupied home: Shelter costs for a home not occupied temporarily by the household because of employment or training away from home, illness, or abandonment because of a natural disaster or casualty loss, shall be deductible (see N.J.A.C. 10:87-2.21(c) for verification requirement). The following conditions must be met in order to qualify for this deduction:

(1) Intent to return home: The household must intend to return to the home.

(2) Duplicate claim of shelter costs: Current occupants, if any, of the home must not be claiming the shelter costs of that home for food stamp purposes.

(3) Rental: The home must not be leased or rented during the absence of the household.

iii. Charges for repair of a home: Charges for the repair of a home which was substantially damaged or destroyed due to a natural disaster, such as a fire or flood, shall be deductible. Shelter costs shall not include charges for home repairs that have been or will be reimbursed by private or public relief agencies, insurance companies, or from any other source.

iv. Utility allowances: Households which incur certain utility costs separate and apart from their rent or mortgage payments are entitled to claim the appropriate utility allowance (see N.J.A.C. 10:87-12.1(d) or (e)) in accordance with the following provisions:

(1) Households that pay directly for their primary source of heat separate and apart from rent or mortgage payments may claim the heating utility allowance (HUA). The CWA shall verify that the household is responsible for primary heating costs.

(A) Households that are charged only for excess heating costs are not eligible for the HUA.

(B) Households that are responsible only for secondary sources of heat are not eligible for the HUA.

(C) Households that heat with wood must actually purchase the wood to be used as fuel to be eligible for the HUA.

(D) Renters who are billed by their landlords for heating fuel costs according to actual usage as determined by individual metering may claim the HUA.

(E) Households that receive a Home Energy Assistance payment are always eligible for the HUA. Eligibility for the HUA based on receipt of HEA shall coincide with the 12-month October 1-September 30 HEA eligibility period. The household shall retain HUA eligibility provided that it either received, or anticipates receiving, HEA benefits during the 12-month period.

(2) Households that do not incur heating costs separate and apart from rent or mortgage payments but do incur a utility charge (other than telephone, water, sewage, or garbage collection fees) are entitled to use the standard utility allowance (SUA). The CWA shall verify that the household incurs such utility charges.

(3) Households whose only utility cost is a surcharge for excess heat or an amount billed by a landlord which does not reflect actual usage as determined by individual metering are not eligible for either utility allowance. Such households may claim actual expenses.

(4) Once a household has made an election between the utility allowance and actual utility expenses, the CWA shall permit the household to switch between actual utility costs and the utility allowance at the time of recertification and one additional time during each 12-month period. If a household's circumstances change such that their responsibility for utilities changes (such as a change in residence), the household may switch between actual costs and the standard allowance at that time.

(5) Households that claim a utility allowance shall not be allowed any additional utility costs toward the shelter deduction.

(6) Households not entitled to use utility allowance may claim actual utility expenses in accordance with (a)5i(3) above.

(7) When a household shares a residence and the utility costs with other individuals, the SUA or HUA shall be divided equally among the parties who pay the utility costs. In such cases, the household shall be permitted to use only its share of the utility allowance, unless the household elects to use its actual costs.

(8) A household which has excluded energy assistance (for example, the AFDC or GA energy disregard, Lifeline or TLAP benefits, or utility allowances rebates, or reimbursements is entitled to the appropriate utility allowance only if during one month of the certification period the household will incur utility expenses in excess of the excluded energy assistance. Lifeline and TLAP assistance shall be prorated over a 12-month period if it is provided as a one-time annual payment.

v. A household comprised entirely of homeless individuals, as defined at N.J.A.C. 10:87-2.4(b) may be entitled to the Homeless Shelter Allowance (HSA) at N.J.A.C. 10:87-12.1(f).

(1) To qualify for the HSA, the household must anticipate that it will incur an out-of-pocket housing expense each month. A household which receives some type of temporary rental assistance may qualify for the HSA, provided that it incurs out-of-pocket housing expense during the month. A household which elects to utilize the HSA may not claim any other shelter expense for the purpose of determining total household shelter expenses. A household claiming the HSA is not entitled to a food stamp utility allowance; a household receiving HEA benefits is entitled to the HUA.

(2) A household which claims actual housing expenses because those costs exceed the HSA may claim a food stamp utility allowance, if otherwise entitled. In that case, the CWA shall verify the household's housing expenses, if questionable, but shall not postpone certification if the household is unable to provide proof that its shelter expenses exceed the HSA. The CWA shall determine whether the expenses claimed are reasonable when compared to the shelter expenses of other homeless households in the area. The CWA shall then either accept or reject the household's statement.

Amended by R.1979 d.387, effective October 1, 1979.

See: 11 N.J.R. 448(a), 11 N.J.R. 559(a).

Amended by R.1979 d.459, effective January 1, 1980.

See: 12 N.J.R. 40(c).

(a): Added paragraph 3; renumbered 3 as 4.

(a)5: Was paragraph 4; changed internal cross-references to conform, added language after "N.J.A.C. 10:87-12.1".

Amended by R.1980 d.387, effective November 1, 1980.

See: 12 N.J.R. 470(b), 12 N.J.R. 599(e).

(a)15: Last sentence added.

Amended on an emergency basis, R.1981 d.398, eff. September 30, 1981 (oper. October 1, 1981), exp. November 30, 1981.

See: 13 N.J.R. 769(a). Readopted R.1981 d.517, eff. December 31, 1981.

See: 13 N.J.R. 769(a), 14 N.J.R. 103(a).

(a)2: "18" percent was "20" percent and LPSS-reference to "N.J.A.C. 10:87-5.9" added.

Amended by R.1983 d.72, effective February 28, 1983.

See: 15 N.J.R. 97(a), 15 N.J.R. 444(a).

Originally filed as an emergency adoption (R.1982 d.503) on December 30, 1982. Changes upon adoption were precipitated by emergency adoption (R.1983 d.38) filed on January 31, 1983. Readopted as R.1983 d.72. Language regarding elderly and disabled was added. Amended by R.1983 d.579, effective November 29, 1983.

Originally filed as an emergency amendment R.1983 d.460, eff. September 26, 1983, operative October 1, 1983.

See: 15 N.J.R. 1774(a), 15 N.J.R. 2170(c).

Emergency Amendment, R.1985 d.713, effective December 27, 1985 (operative January 1, 1986, expires February 24, 1986).

See: 18 N.J.R. 214(a).

(a)5iv(1) and (2) added text.

Emergency Amendment R.1986 d.191, effective April 29, 1986 (operative May 1, 1986, expires June 30, 1986).

See: 18 N.J.R. 1108(a).

Work allowance deduction raised from 18 to 20 percent.

Readoption of Emergency Amendment and Concurrent Proposal, R.1986 d.301, effective June 30, 1986.

See: 18 N.J.R. 1108(a), 18 N.J.R. 1464(b).

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 (a)5ii: revised N.J.A.C. reference.

Amended by R.1990 d.437, effective September 4, 1990.

See: 22 N.J.R. 1670(a), 22 N.J.R. 2715(a).

Revised various N.J.A.C. citations in section.

In (a)4: added "\$160.00" and deleted N.J.A.C. reference to amount.

Amended by R.1990 d.565, effective November 19, 1990.

See: 22 N.J.R. 2219(a), 22 N.J.R. 3486(a).

Clarified that CWAs need not adjust certain household medical expenses when the annual adjustment to food stamps allotment takes place.

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

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

Added new (a)8.

Amended by R.1993 d.62, effective February 1, 1993.

See: 24 N.J.R. 3207(b), 25 N.J.R. 584(a).

In (a)4, added i and ii. In (a)5iv(1)(E), added eligibility for HUA based on receipt of HEA. In (a)5iv, replaced (4) concerning election between utility allowance and actual utility expenses. In (a)5iv(8), added HEA benefits not to be considered when comparing assistance and expenses. In (a)5, added v.

Case Notes

Emergency adoption of regulation cited as example of timely regulation amendment. *Eherenstorfer v. Div. of Public Welfare*, 196 N.J. Super. 405, 483 A.2d 212 (App.Div.1984).

Shelter cost deduction not allowed for residential rehabilitation facility changes to Food Stamp recipient as not included in three deduction items allowed under regulation. *M.D. v. Passaic Cty. Bd. of Social Services*, 3 N.J.A.R. 366 (1981).

10:87-5.11 Treatment of educational assistance

(a) Mandatory school fees, those charged to all students or those charged to all students within a certain curriculum shall be excluded in determining the amount of educational assistance. For example, uniforms, lab fees, or equipment charged to all students in order to enroll in a chemistry course are excluded.

(b) Institution of post secondary education is defined as any public or private educational institution which normally requires a high school diploma or equivalency certificate for enrollment or admits persons who are beyond the age of compulsory school attendance in New Jersey. The institution must be legally authorized or recognized by the State to provide an educational program beyond secondary education or a training program to prepare students for gainful employment.

(c) For purposes of State or other non-Federal educational assistance administered by the school for which the financial aid office takes part in determining eligibility for and level of educational assistance, the financial aid office of the school is to be considered as acting in the capacity of "grantor" for the purpose of determining the educational expenses each student incurs, or is likely to incur, during the semester.

(d) Federal education assistance, funded in whole or part under Title IV of the Higher Education Act of 1986 (Public Law 99-498) or by the Bureau of Indian Affairs (BIA) Higher Education Grant Program, which is made available to the student for tuition, mandatory school fees or specified costs related to college expenses shall be excluded from both income and resources. Title IV programs include Pell, Supplemental Educational Opportunity Grants (SEOG), State Student Incentive Grants (SSIG), the National Direct Student Loan (NDSL) and Perkins Loans Guaranteed Student Loans (GSL), the PLUS program, the College Work Study Program, and the Byrd Honor Scholarships.

1. Specified costs of education that must be treated as income exclusions are tuition and fees normally assessed a student carrying the same academic workload as determined by the institution, and including costs for rental or purchase of any equipment, materials or supplies required of all students in the same course of study; an allowance for books, supplies, transportation and miscellaneous personal expenses for a student attending the institution on at least a half-time basis, as determined by the institution.

2. The institution or grantor shall indicate on budget sheets or other appropriate documentation that the assistance is made available for allowable costs of attendance. The student is not required to verify how the assistance is actually used. However, assistance provided for room, board and dependent care shall not be excluded under this provision.

(e) Origination fees and insurance premiums on student loans are excludable charges.

(f) State educational assistance such as Tuition Assistance Grants (TAG), Educational Opportunity Fund (EOF), Garden State Scholarships, and the PLUS program, shall be excluded from income to the extent that it is made available for tuition, mandatory school fees and specified costs relating to education as designated by the "grantor" or the financial aid office of the school when that office takes part in determining eligibility for, and level of educational assistance.

(g) Non-Federal educational assistance (local and private) shall be excluded from income to the extent that it is made available to the student for tuition, mandatory school fees and specified costs of education such as books, supplies, transportation, and other miscellaneous educational expenses. In order to be excluded, private educational assistance must be "earmarked" by the "grantor" for specific educational expenses.

(h) Verification of educational expenses for non-Federal educational assistance.

1. In order to exclude State or other non-Federal educational assistance, administered by the school for which the financial aid office takes part in determining eligibility for and level of assistance, educational expenses must be identified by the financial aid office of the institution of post-secondary education.

2. An award letter by the post-secondary school administering the non-Federal educational assistance which distinctly identifies anticipated educational expenses separate and apart from normal living expenses shall be considered satisfactory verification for the purpose of determining countable student income.

3. For private educational assistance, an award letter or other document in which the "grantor" designates the funds for specific educational expenses shall be considered acceptable verification.

(i) The following shall not be considered as excludable reimbursements:

1. No portion of benefits provided under Title IV-A of the Social Security Act to the extent that such benefits are attributed to an adjustment for work-related or child care expenses.

2. No portion of any Federal educational grant, scholarship, fellowship, or veteran's educational benefit, to the extent that it provides income assistance beyond that made available for tuition and mandatory fees as set forth in N.J.A.C. 10:87-5.9(a)7. This provision does not apply to assistance provided by programs funded under Title IV of the Higher Education Act, except as specified under N.J.A.C. 10:87-5.9(a)15xiii.

3. No portion of any non-Federal (State, local or private) educational grant, scholarship, fellowship, or veteran's educational benefit that provides for living expenses such as food, rent, or clothing.

4. No portion of educational assistance, from sources other than Title IV, shall be excluded if such funds are not utilized for tuition, mandatory fees, origination fees, and insurance premiums for student loans or designated by the grantor or financial aid office for other specific educational expenses.

New Rule, 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.565, effective November 19, 1990.

See: 22 N.J.R. 2219(a), 22 N.J.R. 3486(a).

Change of "used" for "made available" for educational expenses in accordance with P.L. 100-50.

Case Notes

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.

SUBCHAPTER 6. CERTIFICATION PROCEDURES

10:87-6.1 Applicability

The procedures in this subchapter shall be used to determine program eligibility and benefit levels. For certification of households with special income circumstances, this subchapter shall be used in conjunction with N.J.A.C. 10:87-7. The procedures for certifying destitute households are found in N.J.A.C. 10:87-6.16.

10:87-6.2 Month of application

(a) The month of application for all households is the calendar month in which the household filed its application. For those prerelease applicants described at N.J.A.C. 10:87-2.37(b)3, the month of application shall be the date of release from the institution. This includes households submitting an application following any period of time during which the household was not certified for participation in the program. In most cases, the month of application will be the initial month of the household's certification period (see definition of initial month in (b) below). The CWA shall determine a household's eligibility during the month of application based on the household's circumstances for the entire calendar month in which the household filed its application, even if the household filed its application on the last day of that calendar month.

(b) Initial month defined: The term initial month means the first month that the household is certified for participation in the Food Stamp Program or, for ongoing cases, the first month that the household is certified for participation following any period of time during which the household was not certified for participation.

1. Recertifications shall be processed in accordance with N.J.A.C. 10:87-6.3.

2. If the household submits an application for recertification prior to the expiration of its certification period and is found eligible for the first month following the end of the certification period, then that month shall not be an initial month.

(c) Determining benefit level for initial month: A household's benefit level for the initial month will be based on the day of the month it applies for benefits. For those prerelease applicants described in N.J.A.C. 10:87-2.37(b)3, the initial benefit shall be based on the date of each individual's release from the institution. Using a 30-day calendar month, households shall receive benefits prorated from the day of application to the end of the month. A household applying on the 31st of the month will be treated as though it applied on the 30th of the month. The \$10.00 minimum benefit for one and two person households shall be prorated. To determine the amount of the prorated allotment for the month of application the CWA shall use the Allotment Proration Table found in N.J.A.C. 10:87-12.5. If the allotment for the initial month is less than \$10.00 the CWA shall not issue benefits to that household.

As amended on an emergency basis, R.1981 d.398, effective September 30, 1981 (operative October 1, 1981), expired November 30, 1981. Readopted, R.1981 d.517, effective December 31, 1981.

See: 13 N.J.R. 769(a), 14 N.J.R. 103(a).

(a): "(including . . . Than a month)" added; (a) 1 added.

As amended, R.1983 d.121, effective April 4, 1983.

See: 15 N.J.R. 247(a), 15 N.J.R. 625(b).

Originally adopted as an Emergency Rule, R.1983 d.38, effective January 31, 1983. The amendment was pursuant to the Omnibus Budget Reconciliation Act of 1982 (P.L. 97-253) and the Food Stamp and Commodity Distribution Amendments of 1981 (P.L. 97-98, Title 13).

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.1989 d.464, effective September 5, 1989.

See: 21 N.J.R. 1636(a), 21 N.J.R. 2790(a).

Date of application for applicants who are institutionalized is now the same as date of release from institution.

10:87-6.3 Application for recertification

(a) Eligibility for recertification shall be determined by circumstances anticipated for the certification period beginning with the month following the expiration of the current certification period. The level of benefits for recertification shall be based on the same anticipated circumstances.

(b) If an application for recertification is submitted after the household's certification period has expired, that application shall be considered an initial application and benefits for that month shall be prorated in accordance with N.J.A.C. 10:87-6.2(c).

1. If the household submits an application for recertification before the end of its certification period but is found ineligible for the first month following the end of that period, then the first month of any subsequent participation shall be considered an initial month.

2. Conversely, if the household submits an application for recertification prior to the end of its certification period and is found eligible for the first month following the end of the certification period, then that month shall not be an initial month for that household.

3. If the household contains a member who is a migrant or seasonal farmworker, the household's allotment shall not be prorated, if the household participated in the Program within 30 days prior to the date of the application.

(c) Any household that receives a notice at the time of certification, as discussed in N.J.A.C. 10:87-9.1(a), shall not be subject to proration for the first month of its certification period if the deadline for filing for recertification falls after the end of its current certification period. However, households found ineligible for the first month following the end of their certification shall have the first month of any subsequent participation considered an initial month.

(d) For all households that the CWA elects the timeframe for providing missing verification, as outlined in N.J.A.C. 10:87-2.20 through 2.28, and the end of the timeframe falls after the end of that household's current certification period, the household shall not be subject to proration for the first month following the end of its current certification period, if it has provided the missing verification and is otherwise eligible.

Amended by R.1983 d.121, effective April 4, 1983.

See: 15 N.J.R. 247(a), 15 N.J.R. 625(b).

Originally adopted as an Emergency Rule, R.1983 d.38, effective January 31, 1983. The Amendment was pursuant to the Omnibus Budget Reconciliation Act of 1982 (P.L. 97-253) and the Food Stamp

and Commodity Distribution Amendments of 1981 (P.L. 97-98, Title 13).

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

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

Deleted old text and substituted new.

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): added 3 and revised N.J.A.C. reference in subsection (d).

Amended by R.1990 d.565, effective November 19, 1990.

See: 22 N.J.R. 2219(a), 22 N.J.R. 3486(a).

Added language in (c) regarding "a notice at the time of" certification.

Administrative change.

See: 30 N.J.R. 3550(a).

Case Notes

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).

10:87-6.4 Ineligibility subsequent to month of application

As a result of anticipated changes, a household may be eligible for the month of application but ineligible in the subsequent month. Such households shall be entitled to benefits for the month of application even if the processing of its application results in benefits being issued in a subsequent month.

10:87-6.5 Ineligibility for month of application

(a) A household may be ineligible for the month of application, but eligible in the subsequent month due to anticipated changes in circumstances. Even though denied for the month of application, the household does not have to reapply in the subsequent month. The same application shall be used for both the denial for the month of application and the determination of eligibility for subsequent months, within the timeliness standards in N.J.A.C. 10:87-2.30 and 2.31.

(b) Eligible for month of application but entitled to benefits: Eligible households may have their initial month's allotment prorated to zero, but be entitled to some benefits in subsequent months. The CWA must certify the household beginning with the month of application.

(c) Eligible for month of application but disqualified on an ongoing basis: A household's gross income could be low enough to make it eligible while its net income could be high enough to disqualify it on an ongoing basis. The CWA shall deny these households participation on the grounds that their net income exceeds the level below which benefits are issued.

As amended on an emergency basis, R.1981 d.398, effective September 30, 1981 (operative October 1, 1981), expired November 30, 1981. Readopted, R.1981 d.517, effective December 31, 1981.

See: 13 N.J.R. 769(a), 14 N.J.R. 103(a).

(a) 1 and 2 added.

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.

10:87-6.6 Varying allotments

As a result of anticipated changes, the household's allotment for the application month may differ from its allotment in subsequent months. The CWA must establish a certification period for the longest possible period over which changes in the household's circumstances can be reasonably anticipated. The household's allotment shall vary on a monthly basis within the certification period, to reflect changes anticipated at the time of certification, unless the household elects the averaging techniques in N.J.A.C. 10:87-6.9(f).

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.

10:87-6.7 Determining resources and income

The procedures contained in N.J.A.C. 10:87-6.8 and 6.9 shall be used to determine financial eligibility and benefit levels (see also N.J.A.C. 10:87-7 for households with special income circumstances).

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.

Case Notes

Division of Public Welfare is required to promptly correct any underpayments to current AFDC recipients; said payments are retroactive to the date the incorrect action was taken under former N.J.A.C. 10:82-2.19. *Eherenstorfer v. Div. of Public Welfare*, 196 N.J. Super. 405, 483 A.2d 212 (App.Div.1984).

10:87-6.8 Resources

The household's resources at the time the application is filed shall be used to determine whether or not they exceed the maximums prescribed at N.J.A.C. 10:87-4.13.

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

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

Substituted "prescribed at" for "described in".

10:87-6.9 Income determination

(a) For the purposes of determining the household's eligibility and basis of issuance, the CWA shall consider the income already received by the household during the certification period and any anticipated income that the household and the CWA are reasonably certain will be received during the remainder of the certification period. Income from a new source anticipated after application shall not be counted if the household is destitute (see N.J.A.C. 10:87-6.16 through 6.18).

(b) Uncertain income: If the amount of income which will be received, or when it will be received, is uncertain, that portion of the household's income which is uncertain shall not be counted by the CWA. For example, a household anticipating income from a new source, such as a new job or public assistance benefits recently applied for, may be uncertain as to the timing and amount of the initial payment. These moneys shall not be anticipated by the CWA unless there is reasonable certainty concerning the month in which the payment will be received and in what amount. Households shall be advised to report all changes in gross monthly income in accordance with N.J.A.C. 10:87-9.5(b).

1. Exact amount unknown: If the exact amount of the income is not known, the portion that can be anticipated with reasonable certainty shall be considered income.

2. Fluctuating income: In cases where the receipt of income is reasonably certain but the monthly amount may fluctuate, the household may elect to average income in accordance with (f) below.

(c) Anticipated income: Income received during the most recent 30-day period shall be used as an indicator of anticipated income. However, the CWA shall not use past income as an indicator of income anticipated for the certification if changes in income have occurred or can be anticipated.

1. Longer period for anticipating income: If income fluctuates to the extent that a 30-day period alone cannot provide an accurate indication of anticipated income, the CWA and the household may use a longer period of past time if it will provide a more accurate indication of anticipated fluctuations in future income.

2. Seasonal fluctuations: If the household's income fluctuates seasonally, it may be appropriate to use the most recent season comparable to the certification period, rather than the last 30 days, as one indicator of anticipated income. The CWA shall exercise particular caution in using income from a past season as an indicator of income for the certification period. In many cases of seasonally fluctuating income, the income also fluctuates from one season in one year to the same season in the next year.

3. Changes have occurred or can be anticipated: In no event shall the CWA automatically attribute to the household the amounts of any past income. The CWA shall not use past income as an indicator of anticipated income when changes in income have occurred or can be anticipated during the certification period.

4. For the purpose of determining countable energy assistance payments, the CWA shall consider similar assistance received by the household in the previous certification period, and project those monthly amounts over the next certification period. If the CWA cannot be reasonably certain that the household will receive those moneys, then those funds shall not be counted. The CWA shall

also ascertain that the household's anticipated utility expenses, during any one month of the forthcoming certification period, will exceed the amount of excluded energy assistance.

(d) Income only in month received: Income anticipated during the certification period shall be counted as income only in the month it is expected to be received, unless the income is averaged in accordance with (f) below.

1. Conversion to monthly income: Whenever a full month's income is anticipated but is received on a weekly or bi-weekly basis, the CWA shall convert the income to a monthly amount by multiplying weekly amounts by 4.333 and bi-weekly amounts by 2.167.

2. Nonrecurring lump-sum payments: Non-recurring lump-sum payments shall be counted as a resource starting in the month received and shall not be counted as income (see N.J.A.C. 10:87-4.3 and N.J.A.C. 10:87-5.9(a)10).

3. Wages held by employer: Wages held at the request of the employee shall be considered income to the household in the month the wages would otherwise have been paid by the employer. However, wages held by the employer as a general practice, even if in violation of the law, shall not be counted as income to the household, unless the household anticipates that it will ask for and receive an advance, or that it will receive income from wages that were previously held by the employer as a general practice and that were, therefore, not previously counted as income by the CWA.

4. Advances on wages: Advances on wages shall count as income only if the household anticipates that it will ask for and receive such an advance. Such advances on wages shall count as income in the month received only if reasonably anticipated.

5. Fluctuations caused by mailing cycles: Households receiving public assistance payments (e.g., AFDC, GA, or SSI) or Social Security benefits on a regular monthly basis shall not have their monthly income from these sources varied merely because mailing cycles may cause two payments to be received in one month and none in the next.

(e) Averaging self-employment or contract income: Households which, by contract or self-employment, derive their annual income in a period of time shorter than one year shall have that income averaged over a 12-month period, provided the income from the contract is not received on an hourly or piecework basis. These households may include school employees, sharecroppers, farmers, and other self-employed households. However, these provisions do not apply to migrant or seasonal farmworkers or to destitute households. The procedures for averaging self-employed income are described in N.J.A.C. 10:87-7.2.

(f) Averaging fluctuating income: Households, except destitute households, may elect to have income averaged. Income shall not be averaged for a destitute household since averaging would result in assigning to the month of application income from future periods that is not available to the destitute household for its current food needs.

1. Income averaging procedure: To average income, the CWA shall use the household's anticipation of income fluctuations over the certification period. The number of months used to arrive at the average income need not be the same as the number of months in the certification period. For example, if fluctuating income for the past 30 days and the month of application are known and, with reasonable certainty, are representative of the income fluctuations anticipated for the coming months, the income from the two known months may be averaged and projected over a certification period of longer than two months.

(g) Averaging scholarships, educational grants and loans: Households receiving scholarships, deferred education loans, or other educational grants shall have such income, after exclusions, averaged over the period for which it was provided. The CWA shall apply countable grants, loans, and scholarships beginning with the first month in which the student expects to receive those funds. In the event that the student cannot anticipate, with reasonable certainty, when he or she will receive the student income, then receipt of that income shall be treated and processed as a client reportable change, as per N.J.A.C. 10:87-9.5(b) and (c).

Amended by R.1979 d.459, January 1, 1980.
See: 12 N.J.R. 40(c).

(a)3i: Changed "2.26" to "2.167".

Amended by R.1981 d.97, effective April 9, 1981.
See: 13 N.J.R. 96(c), 13 N.J.R. 228(a).

(a)3ii: "N.J.A.C. . . . 10:87-5.9(a)10 was (a)9".
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.1993 d.62, effective February 1, 1993.
See: 24 N.J.R. 3207(b), 25 N.J.R. 584(a).

In (c), added 4. In (g), describes student income for purpose of determining food stamp eligibility and level of benefit.

10:87-6.10 Determining deductions

Deductible expenses include only certain costs of dependent care, shelter and medical costs as described in N.J.A.C. 10:87-5.10.

Amended by R.1989 d.121, effective February 21, 1989.
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).
Added "and medical costs".

10:87-6.11 Disallowed expenses

(a) The following shall not be included in the determination of deductions:

1. Expense covered by excluded income: An expense covered by an excluded reimbursement or vendor payment (see N.J.A.C. 10:87-5.9) except an energy assistance vendor payment made under the Low Income Home Energy Assistance Act (LIHEAA), shall not be deductible. For example, that portion of rent covered by excluded vendor payments shall not be calculated as part of the household's shelter cost. However, that portion of an allowable medical expense which is not reimbursable shall be included as part of the household's medical expenses. Households entitled to the medical deduction shall have the nonreimbursable portion considered at the time the amount of reimbursement is received or can otherwise be verified.

2. Expenses shall not be deductible if the household provides compensation for the service through an in-kind benefit or if another household member provides the service. For example, a dependent care deduction shall not be allowed if compensation for the care is provided in the form of an in-kind benefit such as food. Expenses shall only be deductible if the service is provided by someone outside of the household and the household makes a money payment for the service.

As amended, R.1979 d.459, effective January 1, 1980.
See: 12 N.J.R. 40(c).

(a)1: Added third and fourth sentences.

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.

10:87-6.12 Billed expenses

(a) Except as provided in N.J.A.C. 10:87-6.13, a deduction shall be allowed only in the month the expense is billed or otherwise becomes due, regardless of when the household intends to pay the expense. For example, rent which is due each month shall be included in the household's shelter costs, even if the household has not yet paid the expense.

(b) Amounts carried forward: Amounts carried forward from past billing periods are not deductible, even if included with the most recent billing and actually paid by the household. In any event, a particular expense may only be deducted once.

Amended by R.1989 d.121, effective February 21, 1989.
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

10:87-6.13 Averaging expenses

(a) Households may elect to have fluctuating expenses averaged. Households may also elect to have expenses which are billed less often than monthly averaged forward over the interval between scheduled billings, or, if there is no scheduled interval, averaged forward over the period the expense is intended to cover. For example, if a household receives a single bill in February which covers a three-month supply of fuel oil, the bill may be averaged over February, March and April.

(b) One-time only expenses: The household may elect to have a one-time only expense, such as an installation charge for utilities, averaged over the entire certification period in which it is billed. Households reporting one-time only medical expenses during their certification period may elect to have a one-time deduction or to have the expense averaged over the remaining months of their certification period. Averaging would begin with the month the change becomes effective. The CWA worker shall explain to the household the advantages of averaging the expense or treating it as a one-time deduction.

As amended, R.1979 d.459, effective January 1, 1980.
See: 12 N.J.R. 40(c).

(b): Added second and third sentences.
Amended by R.1989 d.121, effective February 21, 1989.
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

10:87-6.14 Anticipating expenses

(a) The CWA shall calculate a household's expenses based on expenses for which the household expects to be billed during the certification period. Anticipation of the expense shall be based on the most recent month's bills, unless the household is reasonably certain a change will occur.

(b) Updating utility bills: When the household is not claiming a utility allowance, the CWA may anticipate changes during the certification period based on last year's bills updated by overall price increases; or, if only the most recent bill is available, utility cost increases or decreases over the months of the certification period may be based on utility company estimates for the type of dwelling and utilities used by the household.

(c) Past expenses: The CWA shall not average past expenses, such as utility bills for the last several months, as a method of anticipating utility costs for the certification period.

(d) Conversion of deductions: The income conversion procedures in N.J.A.C. 10:87-6.9(d)1 shall also apply to expenses billed on a weekly or biweekly basis.

As amended, R.1979 d.459, effective January 1, 1980.
See: 12 N.J.R. 40(c).

Added subsection (d).
As amended, R.1983 d.72, effective February 28, 1983.
See: 15 N.J.R. 97(a), 15 N.J.R. 444(a).

Originally filed as an emergency adoption (R.1982 d.503) on December 30, 1982. Readopted as R.1983 d.72. The word standard changed to allowance.

Amended by R.1989 d.121, effective February 21, 1989.
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

10:87-6.15 Calculating net and gross income and benefit levels

(a) The procedures below shall be used to calculate net and gross income and benefit levels.

(b) Net and gross monthly income: To determine a household's net monthly income, the CWA shall follow steps (b)1 through 8 below. To determine a household's total gross income, the CWA shall add, after rounding (according to procedures at (c)1 below), each individual's monthly earned and unearned income(s). This total, minus income exclusions (see N.J.A.C. 10:87-5.9), provides the sum total gross monthly income figure which shall be used to determine the household's eligibility in accordance with (d)1 or 2 below.

1. Step 1: Add the gross monthly income earned by all household members minus earned income exclusions (see N.J.A.C. 10:87-5.9) to determine the household's total gross earned income. Net losses from the self-employment income of a farmer shall be offset in accordance with N.J.A.C. 10:87-7.6.

2. Step 2: Multiply the total gross monthly earned income by 80 percent to determine the net monthly earned income.

3. Step 3: Add to net monthly earned income, the total monthly unearned income of all household members, minus income exclusions (see N.J.A.C. 10:87-5.9).

4. Step 4: Subtract the standard deduction (see N.J.A.C. 10:87-12.1(a)).

5. Step 5: If the household is entitled to an excess medical deduction as provided in N.J.A.C. 10:87-5.10(a)3, determine if total medical expenses exceed \$35.00. If so, subtract the amount that exceeds \$35.00.

6. Step 6: Subtract monthly dependent care expenses, if any, up to the maximum amount allowed for each dependent for whom the household renders payment. If the household is entitled to an excess shelter deduction, compute the household's excess shelter expenses in accordance with step 7.

7. Step 7: Total the allowable shelter expenses to determine shelter costs. Subtract 50 percent of the household's monthly net income (after all the above deductions have been subtracted) from the total shelter costs. The remaining amount, if any, is the excess shelter cost. If there is no excess shelter cost, the net monthly income has been determined. If there is excess shelter cost, compute the shelter deduction in Step 8.

8. Step 8: Subtract the excess shelter cost up to the maximum (unless the household is entitled to the full amount of its excess shelter expenses) from the household's monthly net income after all other applicable deductions. The maximum amount allowed for shelter (for those households subject to a shelter maximum) is the maximum in N.J.A.C. 10:87-12.1(b). Households not subject to a capped shelter expense shall have the full amount exceeding 50 percent of their net income subtracted. The household's net monthly income now has been determined.

(c) Rounding: The CWA shall, when calculating food stamp gross income and benefit levels, round down those income and deduction amounts ending in \$.01 through \$.49, and round-up those ending in \$.50 through \$.99 to the nearest dollar. The CWA shall use the rounding procedure for both the work allowance and shelter cost deductions.

1. When to round: The CWA shall round the following, up or down:

- i. Self-employment income;
- ii. Earned income;
- iii. Public Assistance benefits;
- iv. Supplemental Security Income benefits;
- v. Retirement Survivors Disability Insurance benefits;
- vi. Unemployment/workers compensation;
- vii. General Assistance benefits;
- viii. Other unearned income;
- ix. Dependent care payments;
- x. Medical expenses; and
- xi. Total shelter costs.

(d) Eligibility and benefits: Except for migrant, seasonal farmworker, and homeless households considered destitute in N.J.A.C. 10:87-6.16, the following eligibility and benefit determinations shall apply:

1. Households having an elderly or disabled member: Households which contain an elderly or disabled member (as defined in N.J.A.C. 10:87-2.38) shall have the household's net income, as calculated in (b) above, compared to the monthly income eligibility standard for the appropriate household size in N.J.A.C. 10:87-12.3 to determine eligibility for the month.

2. Households subject to gross and net monthly tests: Households that do not contain an elderly or disabled member shall have their gross monthly income compared to the monthly income eligibility standards in N.J.A.C. 10:87-12.4 for the appropriate household size and shall have their net monthly income, as calculated in (b) above, compared to the monthly income eligibility standard for the appropriate household size in N.J.A.C. 10:87-12.3 to determine eligibility for the month.

3. Benefits: After eligibility has been determined in accordance with (d)1 or 2 above, the CWA shall use the household's net monthly food stamp income to determine the amount of the household's benefits in accordance with N.J.A.C. 10:87-12.6.

- i. If the allotment for an initial month is less than \$10.00, or prorated to less than \$10.00 in accordance with N.J.A.C. 10:87-6.2(c), no benefits shall be issued to the household for the initial month.

ii. Except during an initial month, all eligible one- and two-person households shall receive a minimum monthly allotment of \$10.00 and all eligible households with three or more members entitled to \$1.00, \$3.00 and \$5.00 allotments shall have their allotments rounded to \$2.00, \$4.00 and \$6.00, respectively.

Amended by R.1979 d.459, effective January 1, 1980.
See: 12 N.J.R. 40(c).

(a)1: Added v; renumbered v-vii as v-viii; added language covering uncapped shelter expenses and clarified language.

Amended on an emergency basis, R.1981 d.398, effective September 30, 1981 (operative October 1, 1981), expired November 30, 1981.

See: 13 N.J.R. 769(a). Readopted, R.1981 d.517, effective December 31, 1981.

See: 13 N.J.R. 769(a), 14 N.J.R. 103(a).

Section substantially corrected.

Amended by R.1983 d.72, effective February 28, 1983.

See: 15 N.J.R. 97(a), 15 N.J.R. 444(a).

Originally filed as an emergency adoption (R.1982 d.503) on December 30, 1982. Changes upon readoption were precipitated by emergency adoption (R.1983 d.38) filed on January 31, 1983. Readopted as R.1983 d.72. Language has been added pertaining to eligibility standards for households with no elderly or disabled members, and to clarify the determination of gross monthly income.

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 and recodified.

Amended by R.1990 d.437, effective September 4, 1990.

See: 22 N.J.R. 1670(a), 22 N.J.R. 2715(a).

In (b)4 and (b)8, revised N.J.A.C. citations.

10:87-6.16 Destitute households

Migrant or seasonal farmworker households may have little or no income at the time of application and may be in need of immediate food assistance, even though they receive income at some other time during the month of application. The following procedures shall be used to determine when migrant or seasonal farmworker households in these circumstances may be considered destitute and, therefore, entitled to expedited service and special income calculation procedures. Destitute households shall have their eligibility determined by computing either their gross or net income, as appropriate, and comparing either the gross or net income to the corresponding income eligibility standard. Households other than migrant or seasonal farmworker households shall not be considered destitute.

As amended on an emergency basis, R.1981 d.398, effective September 30, 1981 (operative October 1, 1981) expired November 30, 1981.

See: 13 N.J.R. 769(a). Readopted, R.1981 d.517, effective December 31, 1981.

See: 13 N.J.R. 769(a), 14 N.J.R. 103(a).

"Destitute . . . eligibility standard" added.

As amended, R.1983 d.121, effective April 24, 1983. See: 15 N.J.R. 247(a), 15 N.J.R. 625(b).

Originally adopted as an Emergency Rule, R.1983 d.38, effective January 31, 1983. The amendment was pursuant to the Omnibus Budget Reconciliation Act of 1982 (P.L. 97-253) and the Food Stamp and Commodity Distribution Amendments of 1981 (P.L. 97-98, Title 13).

10:87-6.17 Destitute households with income from a terminated source

(a) Migrant or seasonal farmworker households whose only income for the month of application was received prior to the date of application, and was from a terminated source, shall be considered destitute households and shall be provided expedited service.

(b) Income received monthly or more frequently: If income is normally received on a monthly or more frequent basis, it shall be considered as coming from a terminated source if it will not be received again from the same source during the balance of the month of application or during the following month.

(c) Income received less often than monthly: If income is normally received less often than monthly such income shall be considered as coming from a terminated source if it will not be received in the month in which the next payment would normally be received.

1. Example: If income is received on a quarterly basis (e.g., on January 1, April 1, July 1, and October 1), and the household applies in mid-January, the income should not be considered as coming from a terminated source merely because no further payments will be received in the balance of January or in February. The test for whether or not this household's income is terminated is whether the income is anticipated to be received in April.

As amended, R.1983 d.121, effective April 4, 1983.
See: 15 N.J.R. 247(a), 15 N.J.R. 625(b).

Originally adopted as an Emergency Rule, R.1983 d.38, effective January 31, 1983. The amendment was pursuant to the Omnibus Budget Reconciliation Act of 1982 (P.L. 97-253) and the Food Stamp and Commodity Distribution Amendments of 1981 (P.L. 97-98, Title 13).

10:87-6.18 Destitute households with income from a new source

(a) Migrant or seasonal farmworker households whose only income for the month of application is from a new source shall be considered destitute and shall be provided expedited service only if income of more than \$25.00 from a new source will not be received by the 10th calendar day after the date of application.

(b) Income received monthly or more frequently: Income which is normally received on a monthly or more frequent basis shall be considered to be from a new source only if more than \$25.00 has not been received from that new source within 30 days prior to the date the application was filed.

(c) Income received less often than monthly: If income is normally received less often than monthly, it shall be considered to be from a new source only if more than \$25.00 was not received within the last normal interval between payments.

1. Example: If a household applies in early January and is expecting to be paid every three months starting in late January, the income shall be considered to be from a new source only if no more than \$25.00 was received from the source during October or since that time.

(d) Income from both a terminated and a new source: Households may receive both income from a terminated source prior to and income from a new source after the date

of application, and still be considered destitute if they receive no other income in the month of application and more than \$25.00 from the new source will not be received by the 10th day after the date of application.

(e) Consideration of income: Destitute households shall have their eligibility and level of benefits calculated for the month of application by considering only income that is received between the first of the month and the date of application. Any income from a new source that is anticipated after the day of application shall be disregarded.

(f) Travel advances: Some employers provide travel advances to cover travel costs of new employees who must travel to the location of their new employment. To the extent that these payments are excluded as reimbursements (see N.J.A.C. 10:87-5.9(a)6), receipt of travel advances will not affect the determination of when a household is destitute.

1. Advance on wages: If the travel advance is, by written contract, an advance on wages which will be subtracted from wages later earned by the employee, rather than a reimbursement, the wage advance shall count as income. Nevertheless the receipt of a wage advance for travel costs of a new employee shall neither affect the determination of whether subsequent payments from the employer are from a new source of income, nor whether a household shall be considered destitute.

- i. Example: If a household that applies on May 10, has received a \$50.00 advance for travel from its new employer on May 1 that, by written contract, is an advance on wages, but will not start receiving any other wages from the employer until May 30, shall be considered destitute. The May 30 payment shall be disregarded, but the wage received prior to the date of application shall be counted as income.

(g) Source of income: A household member who changes jobs but continues to work for the same employer shall be considered as still receiving income from the same source. A migrant farmworker's source of income shall be considered to be the grower for whom the migrant is working at a particular point in time, rather than the crew chief. A migrant who travels with the same crew chief but moves from one grower to another is considered to have moved from a terminated income source to a new source.

(h) When expedited procedures apply: The above procedures apply at initial application and at recertification, but only for the first month of each certification period. At recertification, income from a new source is disregarded in the first month of the certification period if income of more than \$25.00 will not be received from this new source by the 10th calendar day after the date of the household's normal issuance cycle.

Amended by R.1980 d.117, effective March 19, 1980.
See: 11 N.J.R. 517(a), 12 N.J.R. 194(b).

(f)1: Added language on "written contract".
Amended by R.1983 d.121, effective April 4, 1983.
See: 15 N.J.R. 247(a), 15 N.J.R. 625(b).

Originally adopted as an Emergency Rule, R.1983 d.38, effective January 31, 1983. The amendment was pursuant to the Omnibus Budget Reconciliation Act of 1982 (P.L. 97-253) and the Food Stamp and Commodity Distribution Amendments of 1981 (P.L. 97-98, Title 13).

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.

10:87-6.19 Certification periods

(a) The CWA shall establish a definite period of time or "certification period" within which a household shall be eligible to receive benefits. A Federally mandated reduction, suspension, or cancellation of allotments in a given month shall have no effect on the certification period assigned to a household. At the expiration of each certification period, entitlement to food stamp benefits ends. Further eligibility shall be established only upon a recertification based upon a newly completed application, an interview, and such verification as required by N.J.A.C. 10:87-2.20 and 2.21.

(b) Under no circumstances shall benefits be continued beyond the end of a certification period without a new determination of eligibility.

Amended by R.1981 d.64, effective February 26, 1981.
See: 13 N.J.R. 226(b).

"A federally mandated . . . household." added.
Amended by R.1989 d.121, effective February 21, 1989.
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

Added (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 (a): revised N.J.A.C. reference.

10:87-6.20 Suspension of categorically eligible households

(a) If a categorically eligible household of three or more individuals is found eligible, but for no actual benefit, in a month other than the initial month of eligibility, the CWA shall certify the household and shall suspend its participation, subject to the following conditions:

1. The CWA shall inform the household in writing of its suspended status and of its rights and responsibilities while it is in suspended status;
2. The CWA shall set the household's change reporting requirements and the manner in which those changes will be reported and processed;
3. The CWA shall specify which changes shall entitle the household to have its suspended status converted to active status, and which changes shall require the household to reapply for participation;
4. The household shall retain its right to submit a new application while it is suspended;

5. The CWA shall convert a household from suspended to active status, without requiring an additional certification interview, and issue its initial allotment within 10 days of the date the household reports the change;

6. The CWA shall prorate the household's benefits for the first month of issuance after suspension period, in accordance with N.J.A.C. 10:87-6.2; and

7. The CWA may delay the work registration of the household's members until the household is determined to be entitled to benefits.

Amended by R.1989 d.121, effective February 21, 1989.
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

This section was "No continuation".

New Rule, R.1993 d.62, effective February 1, 1993.
See: 24 N.J.R. 3207(b), 25 N.J.R. 584(a).

10:87-6.21 Calendar months

Certification periods shall conform to calendar months. At initial application, the first month in the certification period shall generally be the month of application, even if the household's eligibility is not determined until a subsequent month. For example, if a household files an application in January and the application is not processed until February, a six-month certification period would include January through June. Upon recertification, the certification period will begin with the month following the last month of the previous certification period.

10:87-6.22 PA households

(a) PA households (see N.J.A.C. 10:87-2.12(a)1) shall have their food stamp recertifications, to the extent possible, completed at the same time they are redetermined for AFDC. The CWA shall assign such households definite certification periods that will expire the month following the month that the household's AFDC redetermination is due, unless the circumstances of the household would otherwise require a shorter certification period.

(b) For households which do have their food stamp recertification scheduled for the same time as their AFDC redetermination, the CWA shall ensure that the food stamp recertification is completed timely, regardless of whether or not the AFDC redetermination is completed timely (see N.J.A.C. 10:87-2.36(d)).

1. If the AFDC redetermination is not completed timely, the household shall be sent a Notice of Expiration and recertified in accordance with N.J.A.C. 10:87-9.1(b).

2. In no event shall food stamp benefits be continued beyond the end of the certification period.

3. In no event shall a certification period extend beyond 12 months.

As amended, R.1979 d.422, effective October 18, 1979.
See: 11 N.J.R. 379(a), 11 N.J.R. 559(d).

As amended, R.1984 d.17, effective February 6, 1984.
See: 15 N.J.R. 1821(a), 16 N.J.R. 246(a).

Clarification of Food Stamp Certification versus AFDC certification.
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.

10:87-6.23 Other households

(a) Other households shall be assigned the longest certification periods possible based on the predictability of the household's circumstances. Households shall be certified for at least three months, except as follows:

1. Certification processed after the 15th of the month: Households eligible for a certification period of three months or less at the time of certification, shall have their certification periods increased by one month if the certification process is completed after the 15th day of the month of application and the household's circumstances warrant it. For example, if a household eligible for a three-month certification period makes application in June and is not certified until late June or early July, the certification period would begin in June and go through September.

2. Strikers: Households containing one or more persons subject to a lockout or on strike from their place of employment shall not be certified for periods of more than one month, if the household is certified before the 15th day of the month of application. Otherwise, the maximum certification period shall be for two months.

3. One or two months certification: Households shall be certified for one or two months, as appropriate, when the household cannot reasonably predict what its circumstances will be in the near future, or when there is a substantial likelihood of frequent and significant changes in income or household status; for example, day laborers and migrant workers during the work season when income is uncertain and subject to extreme fluctuations during the work season due to the uncertainty of continuous employment or due to bad weather and other circumstances.

4. Certification up to six months: Households shall be certified for up to six months if there is little likelihood of changes in income and household status; for example, households with a stable income record and for which major changes in income, deductions or composition are not anticipated.

5. Households consisting of the unemployable or elderly: Households consisting entirely of unemployable or elderly persons with very stable income shall be certified for up to 12 months provided other household circumstances are expected to remain stable; for example, Social Security recipients, SSI recipients and persons who receive pensions or disability payments.

6. Self-employed: Households whose primary source of income is from self-employment (including self-employed farmers) or from regular farm employment with the same employer shall be certified for up to 12 months, provided income can be readily predicted and household circumstances are not likely to change. Annual certification periods may be assigned to farm workers who are provided their annual salaries on a scheduled monthly basis that does not change as the amount of work changes.

7. Households required to submit monthly reports, in accordance with N.J.A.C. 10:87-9.5(a) shall be certified for not less than six months and not more than 12 months. The limit of 12 months and the six-month minimum for households subject to less frequent than monthly reporting may be waived if the CWA can demonstrate that such a waiver would result in improved administration of the program.

8. Households that are granted separate household status, in accordance with N.J.A.C. 10:87-2.2 because the household consists of an individual and that individual's minor child(ren) living with the individual's parent or sibling and purchasing and preparing meals separate from the parent/sibling, shall be assigned a certification period of not more than six months.

As amended, R.1981 d.97, effective April 9, 1981.

See: 13 N.J.R. 96(c), 13 N.J.R. 228(a).

(a)7 deleted.

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

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

Added (a)7 and 8.

SUBCHAPTER 7. SPECIAL INCOME CIRCUMSTANCES

10:87-7.1 Applicability

The procedures in this subchapter are to be used in conjunction with the certification procedures in N.J.A.C. 10:87-6 to determine eligibility and benefit levels for households with special income circumstances.

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

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

Substituted "N.J.A.C. 10:87-6" for "subchapter 6".

10:87-7.2 Self-employment income

The procedures below shall be used to determine income for all households receiving self-employment income, including those households which own and operate a commercial boarding house. (The procedures for handling income received from boarders by a household that does not own and operate a commercial boarding home are described in N.J.A.C. 10:87-7.10.)

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

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

Substituted "N.J.A.C. 10:87-7.10" for "section 10 of this subchapter".

10:87-7.3 Annualizing self-employment income

(a) Self-employment income which represents a household's annual income shall be annualized over a 12-month period even if the income is received within only a short period of time during that 12 months. For example, a self-employment income received by farmers shall be averaged over a 12-month period, if the income is intended to support the farmer on an annual basis. This self-employment income shall be annualized even if the household receives income from other sources in addition to self-employment.

(b) However, if the averaged annualized amount does not accurately reflect the household's actual circumstances because the household has experienced a substantial increase or decrease in business, the CWA shall calculate the self-employment income on anticipated earnings. The CWA shall not calculate self-employment income on the basis of prior income (for example, income tax returns) when the household has experienced a substantial increase or decrease in business.

(c) Self-employment income received on a monthly basis: Self-employment income which is received on a monthly basis but which represents a household's annual support shall normally be averaged over a 12-month period. If however, the averaged amount does not accurately reflect the household's actual monthly circumstances because the household has experienced a substantial increase or decrease in business, the CWA shall calculate the income based on anticipated earnings (see N.J.A.C. 10:87-7.6(b)).

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

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

Added new (b) and recodified old (b) to (c).

10:87-7.4 Self-employment part of annual support

Self-employment income which is intended to meet the household's support for only part of the year shall be averaged over the period of time the income is intended to cover. For example, self-employed vendors who work only in the summer and supplement their income from other sources during the balance of the year shall have their self-employment income averaged over the summer months rather than a 12-month period.

10:87-7.5 New self-employment enterprise

If a household's self-employment enterprise has been in existence for less than a year, the income from that self-employment enterprise shall be averaged over the period of time the business has been in operation, and the monthly amount projected for the coming year. However, if the business has been in operation for such a short time that there is insufficient information to make a reasonable projection, the household may be certified for less than a year until the business has been in operation long enough to base a longer projection.

10:87-7.6 Determining monthly income from self-employment

(a) For the period of time over which self-employment income is determined, the CWA shall add all gross self-employment income (including capital gains as described in N.J.A.C. 10:87-7.7), exclude the cost of producing the self-employment income (see N.J.A.C. 10:87-7.8) and divide the self-employment income by the number of months over which the income will be averaged.

(b) Anticipated self-employment income: For those households whose self-employment income is not averaged but is instead calculated on an anticipated basis (see N.J.A.C. 10:87-7.3(c), the CWA shall add any capital gain (see N.J.A.C. 10:87-7) the household anticipates it will receive in the next 12 months (starting with the date the application is filed) and divide this amount by 12. This amount shall be used in successive certification periods during the next 12 months, except that a new average monthly amount shall be calculated over this 12-month period if the anticipated amount of capital gains changes. The CWA shall then add the anticipated capital gains to the anticipated monthly self-employment income and subtract the cost of producing the self-employment income. The cost of producing the self-employment income shall be calculated by anticipating the monthly allowable costs of producing the self-employment income.

(c) Determination of adjusted net monthly income: The monthly net self-employment income shall be added to any other earned income received by the household.

1. The total monthly earned income, less a 20 percent earned income deduction shall then be added to all monthly unearned income received by the household.

2. If the cost of producing self-employment income exceeds the income derived from self-employment as a farmer, such losses shall be offset against any other countable income in the household. Losses from farm self-employment income shall be offset first against non-farm self-employment income and second offset against the total of earned and unearned income.

3. For purposes of this provision, to be considered a self-employed farmer, the farmer must receive or anticipate receiving annual gross proceeds of \$1000.00 or more from the farming enterprise.

4. The standard deduction, dependent care, and shelter costs shall be computed in accordance with N.J.A.C. 10:87-6.15 and subtracted (from the amount computed in (c)1 above), to determine the monthly net income of the household. Net losses from the self-employment income of a farmer shall be prorated over the year in accordance with N.J.A.C. 10:87-7.3.

5. Households who derive their self-employment income from a farming operation and who incur irregular expenses to produce such income shall be afforded the option to annualized the allowable costs of producing self-employment income from farming, when the self-employment farm income is annualized.

Amended on an emergency basis, R.1981 d.398, effective September 30, 1981 (operative October 1, 1981), expired November 30, 1981.

See: 13 N.J.R. 769(a). Readopted, R.1981 d.517, effective December 31, 1981.

See: 13 N.J.R. 769(a), 14 N.J.R. 103(a).

(c) "18" percent was "20" percent.

Amended by R.1984 d.17, effective February 6, 1984.

See: 15 N.J.R. 1821(a), 16 N.J.R. 246(a).

Changed reference to N.J.A.C. cite and deleted reference to depreciation.

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.1990 d.270, effective May 21, 1990.

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

In (c): added 5.

10:87-7.7 Capital gains

The proceeds from the sale of capital goods or equipment shall be calculated in the same manner as a capital gain for Federal income tax purposes. (Even if only 50 percent of the proceeds from the sale of capital goods or equipment is taxed for Federal income tax purposes, the CWA shall count the full amount of the capital gain as income for food stamp purposes).

10:87-7.8 Allowable costs of producing self-employment income

(a) Allowable costs of producing self-employment income include, but are not limited to, the identifiable costs of labor, stock, raw material, seed and fertilizer, interest paid on the purchase of income-producing property, insurance premiums and taxes paid on income-producing property.

(b) Costs not allowable: The following items shall not be allowable as a cost of doing business.

1. Payments on the principal: Payments on the principal of the purchase price of income producing real estate and capital assets, equipment, machinery and other durable goods;
2. Previous losses: Net losses from previous periods;
3. Income taxes: Federal, State and local taxes;
4. Money for personal expenses: Money set aside for retirement purposes and other work-related personal expenses (such as transportation to and from work); and
5. Depreciation: Depreciation of equipment, machinery or other capital investments.

As amended, R.1984 d.17, effective February 6, 1984.

See: 15 N.J.R. 1821(a), 16 N.J.R. 246(a).

Added depreciation as cost of producing income.

Case Notes

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).

10:87-7.9 Assigning certification periods

(a) Households that receive their annual support from self-employment and have no other source of income may be certified for up to 12 months.

(b) Households with other income sources: For those households that receive other sources of income or whose self-employment income is intended to cover a period of

time that is less than a year, the CWA shall assign a certification period in accordance with N.J.A.C. 10:87-6.19.

(c) Annual income received in a short period of time: For those self-employed households that receive their annual income in a short period of time (see N.J.A.C. 10:87-7.3), the initial certification period shall be assigned to bring the household into the annual cycle. The annual cycle shall coincide with filing of the household's income tax.

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

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

Recodified (a)1.-2. as (b)-(c).

10:87-7.10 Households with boarders

Persons paying a reasonable amount for room and board as specified in N.J.A.C. 10:87-2.3(b) shall be excluded from the household when determining the household's eligibility and benefit level. The income of households owning and operating a commercial boarding home shall be handled as described in N.J.A.C. 10:87-7.2. (Commercial boarding home is defined in N.J.A.C. 10:87-2.5). For all other households, payments from the boarder(s) shall be treated as self-employment income and the household's eligibility determined in accordance with the procedures below.

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

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

Case Notes

Regulations govern eligibility for benefits in home with boarders, as opposed to a multi-apartment house. Essex Cty. Welfare Bd. v. "W.C.", 1 N.J.A.R. 36 (1979).

10:87-7.11 Income from the boarder

Income from boarders shall include all direct payments to the household for room and meals including contributions to the household's shelter expenses. Shelter expenses paid directly by boarders to someone outside of the household shall not be counted as income to the household.

Case Notes

Regulations govern eligibility for benefits in home with boarders, as opposed to a multi-apartment house. Essex Cty. Welfare Bd. v. "W.C.", 1 N.J.A.R. 36 (1979).

10:87-7.12 Cost of doing business

(a) After determining the income received from the boarders, the CWA shall exclude that portion of the boarder payment which is a cost of doing business. The cost of doing business shall be equal to either of the following procedures, provided that the amount allowed as a cost of doing business shall not exceed the payment the household receives from the boarder for lodging and meals.

1. MCA: The Maximum Coupon Allotment (MCA) for a household size that is equal to the number of boarders; or

2. Actual cost: The actual documented cost of providing room and meals if the actual cost exceeds the MCA. If actual costs are used, only separate and identifiable costs of providing room and meals to the boarders shall be excluded.

Case Notes

Regulations govern eligibility for benefits in home with boarders, as opposed to a multi-apartment house. *Essex Cty. Welfare Bd. v. "W.C."*, 1 N.J.A.R. 36 (1979).

10:87-7.13 Deductible expenses

(a) The net income from self-employment shall be added to other earned income and the 20 percent earned income deduction shall be applied to the total.

(b) Shelter expenses: Shelter costs the household actually incurs, even if the boarder contributes to the household for part of the household's shelter expenses, shall be computed to determine if the household will receive a shelter deduction (see N.J.A.C. 10:87-5.10(e)). However, shelter costs shall not include any shelter expenses paid by the boarder to a third party, such as to the landlord or utility company.

As amended on an emergency basis, R.1981 d.398, effective September 30, 1981 (operative October 1, 1981), expired November 30, 1981. See: 13 N.J.R. 769(a). Readopted, R.1981 d.517, effective December 31, 1981.

See: 13 N.J.R. 769(a), 14 N.J.R. 103(a).

(a) "18" was "20" percent.

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.

Historical Note

N.J.A.C. 10:87-7.14 through 7.18 were amended on an emergency basis by R.1981 d.398, effective September 30, 1981 (operative October 1, 1981), expired November 30, 1981. See: 13 N.J.R. 769(a). The amendments were readopted by R.1981 d.517, effective December 31, 1981. See: 13 N.J.R. 769(a), 14 N.J.R. 103(a). The amendments repealed N.J.A.C. 10:87-7.14 and 7.15 and recodified N.J.A.C. 10:87-7.16, 7.17 and 7.18 as 7.14, 7.15 and 7.16. In N.J.A.C. 10:87-7.16, which was recodified as 7.14, Paragraph (a)3 was amended by the deletion of "20" percent and substitution of "18" percent therefor.

Case Notes

Regulations govern eligibility for benefits in home with boarders, as opposed to a multi-apartment house. *Essex Cty. Welfare Bd. v. "W.C."*, 1 N.J.A.R. 36 (1979).

10:87-7.14 Treatment of income and resources of certain nonhousehold members

(a) During the period of time that a household member cannot participate because he or she is an ineligible alien, disqualified due to intentional program violation, failed/refused to obtain and provide a social security number, refused to comply with a work registration requirement, or is ineligible for failing to sign the declaration attesting to his or her citizenship or alien status, the eligibility and benefit level of the remaining household member(s) shall be determined in accordance with this section.

(b) Excluded for intentional program violation disqualification or refusal to comply with a work registration requirement: The eligibility and benefit level of any remaining household members of a household containing individuals determined ineligible because of disqualification for intentional program violation or refusal to comply with a work registration requirement shall be determined as follows:

1. Resources: The resources of the ineligible household member(s) shall continue to be counted in their entirety to the remaining household members.

2. Income and deductions: The income of the ineligible household member(s) shall continue to be counted in its entirety and the entire household's allowable 20 percent earned income, standards, medical, dependent care, and excess shelter deductions shall continue to apply to the remaining household members.

3. Eligibility and benefit level: The ineligible member(s) shall not be included when determining the household's size for the purpose of:

i. Comparing the household's resources with the resource eligibility limits;

ii. Comparing the household's monthly income with the income eligibility standards; or

iii. Assigning a benefit level to the household. The CWA shall ensure that no household's coupon allotment is increased solely as a result of the exclusion of one or more household members.

(c) Excluded for other causes: The eligibility and benefit level of any remaining household members of a household containing individuals determined ineligible for being an ineligible alien, for failing to sign the declaration attesting to his or her citizenship or alien status, or because of disqualification for refusal to obtain or provide a Social Security number shall be determined as follows:

1. Resources: The resources of such ineligible member(s) shall continue to count in their entirety to the remaining household members.

2. Income: A pro rata share of the income of such ineligible member(s) shall be counted as income to the remaining member(s). This pro rata share is calculated by first subtracting the allowable exclusions (see N.J.A.C. 10:87-5.9) from the ineligible members' income and then dividing the income evenly among the household members, including the ineligible member(s). All but the ineligible members' share is counted as income to the remaining household members.

3. Deductible expenses: The 20 percent earned income deduction shall only apply to that portion of the ineligible members' earned income which is attributed to the household in N.J.A.C. 10:87-7.14(c)2. That portion of the household's allowable shelter and dependent care expenses which are either paid by or billed to the ineligible member(s) shall be divided evenly among the household members, including the ineligible member(s). All but the ineligible members' share is counted as a deductible shelter and/or dependent care expense for the remaining household members.

4. Eligibility and benefit level: The ineligible member(s) shall not be included when determining the household's size for purposes of:

- i. Comparing the household's resources with the resource eligibility limits;
- ii. Comparing the household's monthly income with the income eligibility standard; or
- iii. Assigning a benefit level to the household.

(d) Reduction or termination of benefits within certification period: Whenever an individual is ineligible within the household's certification period, the CWA shall determine the eligibility or ineligibility of the remaining household members based, insofar as possible, on information in the case record and shall take the following action:

1. Excluded for intentional program violation disqualification: If a household's benefits are reduced or terminated within the certification period because one of its members was excluded because of disqualification for intentional program violation, the CWA shall notify the remaining members of their eligibility and benefit level at the same time the excluded member is notified of his or her disqualification. The household is not entitled to a notice of adverse action but may request a fair hearing to contest the reduction or termination of benefits, unless the issue of the amount of the claim was addressed at the time of the administrative disqualification hearing.

2. SSN disqualification, ineligible alien or noncompliance with employment and training: If a household's benefits are reduced or terminated within the certification period because one or more of its members is an ineligible alien or is ineligible because he or she was disqualified for refusal to obtain or provide an SSN, the CWA shall issue a notice of adverse action, informing the household of the ineligibility, the benefit level of remaining members and action required by the household to end the ineligibility.

Amended by R.1981 d.97, effective April 9, 1981.

See: 13 N.J.R. 96(c), 13 N.J.R. 228(a).

(a): "or failure . . . N.J.A.C. 10:87-3.20(d)" deleted.

(a)5i deleted.

(a)5ii renumbered as (a)5i.

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).

Full descriptions of treatment of income and resources of "excluded" as opposed to "disqualified" household members.

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.1990 d.565, effective November 19, 1990.

See: 22 N.J.R. 2219(a), 22 N.J.R. 3486(a).

Specified how to treat the income and resources of individuals who fail to attest to their citizenship or alien status when determining the eligibility and benefit level of remaining household members, in accordance with the Federal regulations at 7 CFR 273.11; established the

dependent care deduction as a separate deduction from the shelter deduction.

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) and (b): added phrase, "... refused/refusal to comply with work registration requirement . . ."

10:87-7.15 Treatment of income and resources of other nonhousehold members

(a) For those nonhousehold members who are ineligible for reasons other than those set forth in N.J.A.C. 10:87-2.3(c), such as ineligible students (see N.J.A.C. 10:87-2.3(a)2), the income and resources of the nonhousehold members shall not be considered available to the household.

1. Cash payments: Cash payments from the nonhousehold member to the household will be considered income under the normal income procedures in N.J.A.C. 10:87-5.5.

2. Vendor payments: Vendor payments, as defined in N.J.A.C. 10:87-5.9(a)2, shall be excluded.

3. Deductible expenses: If the household shares deductible expenses with the nonhousehold member, only the amount actually paid or contributed by the household shall be deducted as a household expense. If payments or contributions cannot be differentiated, the expenses shall be prorated evenly among persons actually paying or contributing to the expense and only the household's pro rata share deducted.

4. Combined income of household members and nonhousehold members: When the earned income of one or more household members and the earned income of a nonhousehold member are combined into one wage, the income of the household member shall be determined as follows:

i. If the household's share can be identified, the CWA shall count that portion as earned income to the household; or

ii. If the household's share cannot be identified, the CWA shall prorate the earned income among those persons it was intended to cover and count that prorated share as earned income to the household.

(b) Nonhousehold members shall not be included when determining household size for the purpose of:

1. Assigning a benefit level;

2. Comparing the household's monthly income with the income eligibility standards; or

3. Comparing household resources with the eligibility limits.

As amended, 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).

Language added about combined incomes of household and non-household members.

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

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

Added (b).

10:87-7.16 Residents of drug/alcoholic treatment and rehabilitation programs and group living arrangements

(a) Narcotic addicts or alcoholics, who regularly participate in publicly operated or private nonprofit drug or alcoholic treatment and rehabilitation programs on a resident basis, and disabled or blind residents of a group living arrangement who receive benefits under Title II or Title XVI of the Social Security Act may voluntarily apply for the Food Stamp Program.

1. Narcotic addicts or alcoholics: Resident addicts and alcoholics shall have their eligibility determined as a one-person household. The CWA shall certify residents of drug/alcoholic treatment centers by using the same provisions that apply to all other applicant households except that certification must be accomplished through an authorized representative (see also N.J.A.C. 10:87-2.7(e)).

2. Residents of group living arrangements: Residents of group living arrangements shall have their eligibility determined as one-person households when applying on their own behalf. The CWA shall certify residents of group living arrangements by using the same provisions that apply to all other applicant households except that certification may also be accomplished through an authorized representative of the group living arrangement or another representative chosen by the applicant (see also N.J.A.C. 10:87-2.7(f)).

(b) List of participants: Each treatment center, rehabilitation center, and group living arrangement facility shall provide the CWA with a certified list of currently participating residents on a monthly basis. In addition, the CWA shall conduct random onsite visits to the center or facility at least once every three months to assure accuracy of the listings and CWA's records are consistent and up-to-date.

(c) Procedure applying to residents: The following provisions apply to residents of treatment centers and group living arrangement facilities.

1. Expedited processing: When expedited processing standards as described in N.J.A.C. 10:87-2.32 through 2.35 are necessary, eligibility for initial application shall be processed on an expedited basis and the CWA shall complete verification and documentation requirements prior to issuance of a second coupon allotment.

2. Normal processing: When normal processing standards apply, the CWA shall complete the verification and documentation requirements prior to making an eligibility determination for the initial application.

3. Processing changes and recertifications: The CWA shall process changes in household circumstances and recertifications by using the same standards that apply to all other households.

4. Rights of residents: Resident households shall be afforded the same rights to notices of adverse action, to fair hearings, and to entitlement to lost benefits as are all other food stamp households.

(d) Reporting requirements of the drug/alcoholic treatment center and group living arrangement facility: The treatment center or group living arrangement facility shall be responsible for reporting changes to the CWA in accordance with the following:

1. Reporting requirements of the treatment center: The treatment center shall notify the CWA of changes in the household's income or other household circumstances and of when the addict or alcoholic leaves the treatment center. The treatment center shall return to the CWA a household's ATP or coupons received after the household has left the center.

2. Reporting requirements of the group living arrangement facility: If the group living arrangement facility is acting in the capacity of an authorized representative, the facility shall notify the CWA of changes in the household's income or other household circumstances and when the individual leaves the group living arrangement. The facility shall return a household's ATP or coupons to the CWA if they are received after the household has left the group living arrangement.

i. Residents who have applied on their own behalf: If the resident has made application on his/her own behalf, the household is responsible for reporting changes to the CWA.

(e) Responsibilities upon a resident's leaving: When a resident of an addict or alcoholic treatment center or group living arrangement facility leaves the treatment center or group living facility, the following provisions shall apply:

1. The treatment center/group living facility shall provide residents with their ID card and any untransacted ATP cards or coupons issued for that household when the household leaves the center or facility.

2. The treatment center/group living facility must return to a departing household its full allotment of food coupons if already issued and no coupons were spent on behalf of that individual household.

i. If a household, for whom the center/facility is acting as an authorized representative, leaves the treatment center/group living arrangement prior to the 16th day of the month and any portion of the coupons have been spent on behalf of the individual, the treatment center/group living arrangement shall provide the household with one-half of its monthly coupon allotment. If the household leaves after the 16th day of the month and the coupons have already been used, the household does not receive any coupons.

ii. If a group of residents in a group living arrangement have been certified as one household, and have returned the coupons to the facility to use, the department resident(s) shall be given a pro rata share of one-half of the household's monthly coupon allotment if leaving prior to the 16th day of the month. If the household leaves after the 16th day of the month and the coupons have already been used, the household does not receive any coupons.

3. Such treatment centers/group living facilities must return to the CWA, at the end of each month, any coupons not provided to departing residents.

4. Treatment centers/group living facilities shall not act as authorized representatives for any household that has left the center/facility.

5. The treatment center/group living facility shall, if possible, provide the household with a Change Report Form to report, to the CWA, the individual's new address and other circumstances after leaving the center/facility, and shall advise the household to return the form to the appropriate office of the CWA within 10 days.

(f) Fraud and misrepresentation: The organization, institution, treatment center or group living facility is responsible for any misrepresentation or IPV which it knowingly commits in the certification of center or facility residents. As an authorized representative, the organization, institution, treatment center, or group living facility must be knowledgeable about the household's circumstances and should carefully review those circumstances with residents prior to applying on their behalf. The organization, institution, treatment center or group living facility acting in the capacity of an authorized representative is strictly liable for all losses or misuse of food coupons held on behalf of resident households and for all overissuances which occur while the households are residents of the treatment center or group living facility. A resident or a group of residents of a facility who applied and were certified on their own behalf, are liable for any overissuance.

(g) Penalties and disqualifications: The organization, institution, treatment center, or group living facility may be penalized or disqualified by FNS if it is determined administratively or judicially that coupons were misappropriated or used for purchases that did not contribute to a certified household's meals. The CWA shall promptly notify DEA when it has reason to believe that an organization, institution, treatment center, or group living facility is misusing coupons in its possession. DEA will forward the report to FNS. However, the CWA shall not take any action against the organization, institution, treatment center, or group living facility prior to FNS action.

(h) Claims for overissuance: The CWA shall establish a claim against the treatment center or group living arrangement facility for overissuance of food coupons held on behalf of resident clients if any overissuances are discovered

during an investigation or hearing procedure for redemption violations.

Amended by, R.1980 d.117, effective March 19, 1980.
See: 11 N.J.R. 517(a), 12 N.J.R. 194(b).

(a): In first sentence, deleted "s" in "Narcotics", deleted "FNS-authorized" after "participate in".

(e): Added requirement to return untransacted ATP cards.

Amended by, R.1982 d.473, effective January 3, 1983.

See: 14 N.J.R. 1037(a), 15 N.J.R. 34(a).

Substantial amendment regarding group living arrangements.

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.1990 d.270, effective May 21, 1990.

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

Deleted (i): "disqualified treatment or group living arrangement facility" regarding food stamp eligibility.

10:87-7.17 Residents of shelters for battered women and their children

(a) Residents of shelters for battered women and their children shall apply as separate households and shall be certified solely on the basis of their income and resources, and the expenses for which they are responsible. Such households shall be certified without regard to the income, resources, and expenses of their former household.

(b) Jointly held resources shall be considered inaccessible if such resources meet the provisions of N.J.A.C. 10:87-4.4(c).

(c) Room payments to the shelter shall be considered as shelter expenses.

(d) Any shelter residents eligible for expedited service shall be handled in accordance with the provisions of N.J.A.C. 10:87-2.32-2.35.

(e) CWA responsibilities: The CWA shall take prompt action to ensure that the shelter resident's former household's eligibility or allotment reflects the change in the former household's composition. Such action shall include either shortening the certification period by issuing a notice of expiration to the shelter resident's former household or acting on the reported change by issuing a notice of adverse action. (See N.J.A.C. 10:87-9.5.)

As amended, R.1981 d.97, effective April 9, 1981.

See: 13 N.J.R. 96(c), 13 N.J.R. 228(a).

(a): "Students" was "tax dependents", "N.J.A.C. 10:87-2.3(a)5" was "3.22".

R.1982 d.474, effective January 3, 1983.

See: 14 N.J.R. 1081(b), 15 N.J.R. 35(a).

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

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

10:87-7.18 Deeming of income and resources of alien sponsors

(a) Portions of the gross income and resources of an alien's sponsor (and the sponsor's spouse if living together regardless of whether or not they were married at the time the affidavit of support was signed) shall be deemed available to the alien for a period of three years following the date established by the Immigration and Naturalization Service as the date the alien was admitted for permanent residence.

1. Aliens admitted for permanent residence: The deeming of income and resources of a sponsor applies only to an alien lawfully admitted for permanent residence as an immigrant as defined in sections 101(a)(15) and 101(a)(20) of the Immigration and Nationality Act and for which a sponsor signed an affidavit of support or similar statement as a condition of the alien's entry into the United States as a lawful permanent resident on or after February 1, 1983.

2. Deeming rules inapplicable: Deeming does not apply to the following aliens:

i. Any alien participating in the Food Stamp Program as a member of the sponsor's household or whose sponsor is participating in the Food Stamp Program separate and apart from the alien;

ii. Any alien sponsored by a group or organization instead of an individual; or

iii. Any alien not required to have a sponsor under the Immigration and Nationality Act, such as, but not limited to, a refugee, a parolee, an alien granted asylum, or a Cuban or Haitian entrant.

(b) Deeming of income computation: To determine the amount of income deemed available to the alien:

1. Compute the total gross monthly earned income of the sponsor (and sponsor's spouse if applicable) at the time the household containing the sponsored alien applies or is recertified for food stamp participation and multiply by 80 percent.

2. Add the monthly unearned income of the sponsor (and the sponsor's spouse if applicable) at the time the household containing the sponsored alien applies or is recertified for food stamp participation.

3. Subtract the monthly gross income eligibility limit (N.J.A.C. 10:87-12.4) for a household equal in size to the sponsor, the sponsor's spouse and any other person who is claimed or could be claimed by the sponsor or sponsor's spouse as a dependent for Federal income tax purposes.

4. The remaining amount shall be counted as unearned income in determining eligibility and benefit level for the household containing a sponsored alien whether or not the monies are actually available to the household.

5. If the alien has already reported his or her sponsor's gross income in accordance with AFDC sponsored alien rules, that income amount shall be used for food stamp deeming purposes. However, allowable reductions to be applied to the total gross income of the sponsor and the sponsor's spouse prior to attributing an income amount to the alien shall be limited to those stated in (b)1 and 3 above.

6. Actual money paid to the alien by the sponsor or the sponsor's spouse will not be considered as income to the alien unless the amount paid exceeds the amount deemed to the alien under this section. Only the amount paid that actually exceeds the amount deemed would be considered additional income to the alien.

(c) Deeming of resources: To determine the amount of resources deemed available to the alien:

1. Determine the total amount of resources of the sponsor (and sponsor's spouse if applicable) in accordance with N.J.A.C. 10:87-4 and reduce the amount of \$1,500. The remainder shall be deemed available to the household which contains the sponsored alien.

2. The amount of income and resources deemed to the sponsored alien in accordance with N.J.A.C. 10:87-7.18(b) shall be considered in determining the eligibility and benefit level of the household in which the alien is a member.

(d) Multiple sponsorship: If a sponsored alien can demonstrate that his or her sponsor also sponsors other aliens, the amount of income deemed available in (b) above and the amount of resources deemed available in (c) above shall be divided among the aliens sponsored and that amount shall be used to determine eligibility and benefit level of the household containing the sponsored alien.

(e) Change in sponsor: If the alien changes sponsors within a certification period, the deemed income and resources shall be recalculated based on information on the new sponsor as soon as possible. In the event that an alien loses his or her sponsor during the three-year limit on the sponsored alien provisions and does not obtain another, the deemed income and resources of the previous sponsor shall continue to be attributed to the alien until such time as the alien obtains another sponsor or until the three-year period for applying the sponsored alien provisions expires. However, should the alien's sponsor become deceased, the deemed income and resources of the sponsor shall no longer be attributed to the alien.

(f) Verification: The sponsored alien and his or her spouse are responsible for providing the CWA with any information necessary to determine the income and resources of the alien's sponsor and the sponsor's spouse. The alien and his or her spouse shall also be responsible for demonstrating to the CWA that the sponsor also sponsors other aliens, how many, and for obtaining any necessary cooperation from the sponsor.

1. The alien and his or her spouse shall be responsible for obtaining the cooperation of the sponsor for a period of three years from the alien's date of entry or admission as a lawful permanent resident and for providing information and/or required documentation necessary to calculate deemed income and resources at the time of application or recertification for participation in the Food Stamp Program. Reporting changes in sponsor income, employment, and for providing the names or other identifying factors of other sponsored aliens by the sponsor or the sponsor becoming deceased shall be the responsibility of the sponsored alien and shall be handled in accordance with the timeliness standards of N.J.A.C. 10:87-9.1 through 9.5.

2. The CWA shall obtain from the alien or alien's spouse the following information:

- i. The income and resources of alien's sponsor and the sponsor's spouse (if living with the spouse);
- ii. The names and alien registration number of other aliens for whom the sponsor has signed an affidavit of support or similar agreement;
- iii. The provision of the Immigration and Nationality Act under which the alien was admitted;
- iv. The date of the alien's entry or admission as a lawful permanent resident as established by INS;
- v. The alien's date of birth, place of birth, and alien registration number;
- vi. The number of dependents who are claimed or could be claimed for Federal income tax purposes of the sponsor and the sponsor's spouse;
- vii. The name, address, and phone number of the alien's sponsor.

2. The CWA shall verify the information obtained pursuant to (f)1i and ii above. The CWA shall verify the information which the CWA determines is questionable and which affects household eligibility and benefit level in accordance with procedures established at N.J.A.C. 10:87-2.21(a)8 for verifying questionable information.

3. The CWA shall verify the information obtained pursuant to (f) above. The CWA shall verify the information which the CWA determines is questionable and which affects household eligibility and benefit level in accordance with procedures established at N.J.A.C. 10:87-2.21 for verifying questionable information.

4. If information necessary to carry out these deeming provisions is not received or verified on a timely basis, the sponsored alien and his or her spouse shall be ineligible until such time as all necessary facts are obtained. The eligibility of any remaining household members shall be determined.

- i. The income and resources of the ineligible alien and his or her spouse (excluding the deemed income and resources of the alien's sponsor and the sponsor's spouse) shall be considered available in determining the eligibility and benefit level of remaining household members.
- ii. If a sponsored alien refuses to cooperate in providing or verifying needed information, other adult members of the alien household shall be responsible for providing/verifying the required documentation. If the same sponsor is responsible for the entire alien household, they shall remain ineligible until such time that the needed sponsor information is provided and/or verified.

iii. If information or verification is subsequently received, the CWA shall act on the information as a reported change in household membership in accordance with the timeliness standards in N.J.A.C. 10:87-9.5(b)2.

(g) Claims for overissuance:

1. Liability for overissuance: Any sponsor of an alien and the alien shall be jointly and severally liable for repayment of any overissuance of coupons as a result of incorrect information provided by the sponsor. However, if the alien's sponsor had good cause and was without fault for supplying the incorrect information, the alien's household shall be solely liable for repayment of the overissuance.

i. For the purpose of this section, "good cause" shall include but is not limited to circumstances in which the sponsor did not knowingly or willfully provide incorrect information.

ii. For the purpose of this section, "without fault" shall include but is not limited to circumstances in which the alien misrepresented or misstated the financial status of the sponsor.

2. Claims against the household and sponsor: Where the sponsor did not have good cause, the CWA shall decide whether to establish a claim for the overissuance against the sponsor or the alien's household, or both. The CWA may choose to establish claims against both parties at the same time or establish a claim against the party it deems most likely to repay first. If a claim is established against the alien's sponsor first, the CWA shall ensure that a claim is established against the alien's household whenever the sponsor fails to respond to the CWA's demand letter within 30 days of receipt. The CWA shall return to the alien's sponsor and/or the alien's household any amount repaid in excess of the total amount of claim.

3. Claims against sponsors: The CWA shall initiate collection against a sponsor by sending a written demand letter which informs the sponsor of the amount owed, the reason for the claim, how the claim may be repaid, and that the sponsor will not be held liable if he or she can demonstrate that he or she was not at fault or had good cause for providing incorrect information. The CWA shall follow the demand letter with a personal contact if possible. The sponsor is entitled to a fair hearing, either to contest a determination that the sponsor was at fault where it was determined that incorrect information has been provided or as to contest the amount of the claim.

i. The CWA may pursue other means of collection if the sponsor fails to respond to the demand letter.

ii. The CWA may terminate collection action against the sponsor at any time if it can document that the sponsor cannot be located or that the cost of

further collection is likely to exceed the amount that can be recovered.

iii. If the sponsor responds to the demand letter and is financially able to pay the claim at one time, the CWA shall collect a lump sum cash payment. If the sponsor is not financially able to repay the claim at one time, a repayment schedule may be negotiated as long as the payments are provided in regular installments. Funds collected shall be forwarded to DEA in accordance with N.J.A.C. 10:87-11.31(d).

4. Claims against alien households: Prior to initiating collection action against the household of a sponsored alien for repayment of an overissuance caused by incorrect information having been supplied concerning the alien's sponsor or sponsor's spouse, the CWA shall determine whether such incorrect information was supplied due to inadvertent household error, or an act of intentional program violations on the part of the alien. These actions shall be taken regardless of the current eligibility of the sponsored alien or the alien's household.

i. If sufficient documentary evidence exists to substantiate that the incorrect information concerning the alien's sponsor or sponsor's spouse was provided due to intentional program violation on the part of the alien, the CWA shall pursue the case in accordance with the procedures specified in N.J.A.C. 10:87-11.29 for intentional program violations. The claim against the alien's household shall be handled as an inadvertent household error claim prior to the determination of intentional program violation by an administrative law judge or a court of appropriate jurisdiction.

ii. If the CWA determines that the incorrect information was supplied due to misunderstanding or unintended error on the part of the sponsored alien, the claim shall be handled as an inadvertent household error claim in accordance with the procedures specified in N.J.A.C. 10:87-11.26. These actions shall be taken regardless of the current eligibility of the sponsored alien or the alien's household.

R.1983 d.121, effective April 4, 1983.

See: 15 N.J.R. 247(a), 15 N.J.R. 625(b).

Originally adopted as an Emergency Rule, R.1983 d.38, effective January 31, 1983.

Pursuant to the Federal Omnibus Budget Reconciliation Act of 1982 and Commodity Distribution Amendments of 1981.

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.1990 d.270, effective May 21, 1990.

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

In (f)3: revised N.J.A.C. reference.

Case Notes

Food stamp applicant had to disclose sponsor information for alien wife. *L.F. v. Essex County Division of Welfare*, 92 N.J.A.R.2d (DEA) 20.

10:87-7.19 Homeless Food Stamp households and homeless meal providers

(a) Homeless Food Stamp households shall be permitted to use their food stamp benefits to purchase prepared meals from approved homeless meal providers (see N.J.A.C. 10:87-2.7 and 2.10).

(b) Homeless meal providers are public or private non-profit organizations as defined by the IRS, that apply for and qualify as retail food stores to accept food stamps from homeless food stamp recipients. The homeless meal provider shall be responsible for obtaining written approval from the New Jersey Division of Economic Assistance, for submission to the Food and Nutrition Service (FNS) prior to obtaining final authorization to accept food stamps. Homeless meal providers serving meals which consist solely of donated foods shall not be eligible for food stamp coupon redemption authorization. The Food and Nutrition Service reserves the right to limit participation of homeless meal providers when evidence obtained indicates that participation of the provider indicates possible damage to the integrity of the Food Stamp Program.

New Rule, R.1989 d.121, effective February 21, 1989.

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

SUBCHAPTER 8. FAIR HEARINGS

10:87-8.1 General provisions

(a) The conduct of fair hearings shall be governed by the Uniform Administrative Procedure Rules contained in N.J.A.C. 1:1 and Public Welfare Hearings contained in N.J.A.C. 1:10. If any rule in this subchapter is inconsistent with those rules, N.J.A.C. 1:1 and 1:10 shall take precedence.

(b) Any household which is dissatisfied with any CWA action or inaction, affecting the household's participation in the Program shall be advised of its fair hearing rights and be given an opportunity to receive a fair hearing. The household shall also be advised of available legal services.

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

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

Added (a), made existing text (b).

10:87-8.2 CWA responsibility to provide fair hearing information

The CWA shall make Form FSP-196, "Fair Hearings in the Food Stamp Program", available to any interested party upon request.

Amended by R.1985 d.180, effective April 15, 1985 (operative May 1, 1985).

See: 17 N.J.R. 167(a), 17 N.J.R. 969(a).

Old text deleted and new text substituted.

10:87-8.2A Fair hearing based on Federal changes

Fair hearings will be denied those households which are merely disputing the fact that a federally mandated reduction, suspension, or cancellation was ordered. If the request for a fair hearing is based on a household's belief that its benefit level was computed incorrectly or that regulations were misapplied or misinterpreted, the household shall be given an opportunity to receive a fair hearing (see N.J.A.C. 10:87-8.9(b)). Since the reduction, suspension or cancellation would be necessary to avoid an expenditure of funds beyond those appropriated by Congress, households do not have a right to a continuation of benefits pending the fair hearing. The household may receive retroactive benefits in an appropriate amount if it is determined that its benefits were reduced by more than the amount by which the CWA was directed to reduce benefits. CWAs will only refer those requests which qualify for a fair hearing to the Bureau of Administrative Review and Appeals (BARA).

R.1984 d.64, effective February 26, 1981.

See: 13 N.J.R. 226(b).

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.

10:87-8.3 Request for fair hearing

Any clear expression, oral or written, by the household or its representative to the effect that it wishes to appeal a decision or which indicates a desire to present the case to a high authority shall be construed as a request for a fair hearing.

10:87-8.4 Right to request a fair hearing

(a) The right to request a fair hearing shall not be limited or interfered with in any way.

1. Informal efforts to effect an adjustment: Informal efforts to effect an adjustment may be made through field contacts, office interviews with supervisory personnel, consultation with the State DEA Field Representative, etc. In no event, however, shall such informal efforts be considered prerequisite to a fair hearing, nor shall they delay, replace, interfere with or otherwise impede the processing of a fair hearing which has been requested by the household.

2. Agency conference: The CWA shall offer agency conferences to households which wish to contest a denial of expedited service under the procedures in N.J.A.C. 10:87-2.32 through 2.35. The CWA shall advise households that use of an agency conference is optional and that it shall in no way delay or replace the fair hearing process.

i. Attendance: The agency conference may be attended by the eligibility worker responsible for the agency action, and shall be attended by an eligibility supervisor (other than the supervisor of the eligibility worker responsible for the action) and/or the agency director, and by the household and/or its representative.

ii. Scheduling: An agency conference for households contesting a denial of expedited service shall be scheduled within two working days of the date the household contests the action of the CWA, unless the household requests that it be scheduled later or states that it does not wish to have an agency conference.

iii. Informal resolution: An agency conference may lead to an informal resolution of the dispute. However, a fair hearing must still be held unless the household makes a written withdrawal of its request for a hearing.

(b) CWAs shall conduct pre-hearing settlement conferences concerning Food Stamp Program appeals, except for IPV issues in accordance with the following procedures:

1. The CWA shall contact the appellant to schedule a Pre-Hearing Settlement Conference (PHSC) within five working days as soon as the CWA receives and forwards the fair hearing request to the Division of Economic Assistance (DEA). If the Fair Hearing request is made directly to DEA, the CWA will initiate the procedure upon notification of the request by DEA but not later than one day from receipt of the request.

2. The CWA Fair Hearing Liaison shall preside over the pre-hearing settlement conference and act as a mediator between the appellant and other appropriate CWA staff.

3. The CWA shall report the disposition of each food stamp hearing request to the Division of Economic Assistance, Bureau of Administrative Review and Appeals (BARA) with an information copy to the Office of Administrative Law. The report shall contain at a minimum, but not be limited to, the following information:

i. The contested issues;

ii. The scheduled time, date and location of a pre-hearing settlement conference;

iii. The verbal or written acceptance or declination by the appellant to attend a pre-hearing settlement conference;

iv. Whether or not a settlement was reached; and

v. Terms of the settlement or basis for the appellant's decision to withdraw. The report must be co-signed by the appellant and the mediator or other CWA official.

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

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

Added (b).

10:87-8.5 Time period for request of a hearing

A household may request a hearing on any action by CWA or loss of benefits which occurred in the prior 90 days. In addition, at any time within a certification period, a

household may request a fair hearing to dispute its current level of benefits.

10:87-8.6 Processing fair hearing requests

(a) To assure orderly and expeditious processing of complaints and fair hearing requests, the CWA and Division of Economic Assistance (DEA) shall proceed in the following manner:

1. CWA responsibilities: The CWA shall designate a staff member to act as a fair hearing liaison between itself and the DEA. Upon receipt of a request for a fair hearing, and no later than one working day following receipt of the request, the liaison shall notify the DEA of the request, the issues to be resolved, and such other information as may be necessary to process the case.

2. Administrative responsibilities of CWA liaison: The CWA liaison's duties shall include, but not be limited to, the following:

i. Establishing a system: The liaison shall establish a system to insure that every written request for a hearing which is received by the CWA is stamped with the date of receipt and forwarded to the Division of Economic Assistance within one working day of the date of the request.

ii. Review requests: The liaison shall review incoming requests for possible corrective action prior to a hearing.

iii. Arranging staff participation: The liaison shall identify, and arrange for participation of CWA staff who may be essential to the hearing. The liaison shall also assemble all records relevant to the hearing and arrange for an interpreter if the household does not speak English.

iv. Contacting household: The liaison shall contact the household or its representative, not less than two working days prior to a hearing, to confirm attendance and to arrange for the transportation of household if necessary.

v. Submitting reports: Prior to the hearing date, the liaison shall submit special reports regarding hearing requests, if so instructed by the DEA.

vi. Submitting implementation reports: The liaison shall submit reports, regarding the implementation of State fair hearing decisions, in accordance with the provisions of N.J.A.C. 10:87-8.18.

vii. Single individual to be contacted: The liaison shall serve as the single individual in the CWA to be contacted regarding matters relating to hearings.

3. Responsibilities toward the household: The CWA shall provide the following services to the household:

i. Oral requests for fair hearing: An oral request for a fair hearing shall be reduced to a written record by the staff person to whom the request is made. No special form or manner of expression is required, provided that the request identifies the nature and date of the complaint. If it is unclear from the household's request what action it wishes to appeal, the CWA may request the household clarify its grievance.

ii. Assisting in the preparation of the case: Upon the household's request, the CWA shall assist in the preparation of the household's fair hearing request.

iii. Information and referral services: The household shall be informed of, and referred to, legal services in the community for the purpose of obtaining legal counsel at the hearing.

iv. Providing pertinent record: Upon request, the CWA shall make available without charge the specific materials necessary for a household or its representative to determine whether a hearing should be requested or to prepare for a hearing.

v. Bilingual requirements: If the individual making the request speaks a language other than English and the CWA is required by N.J.A.C. 10:87-9 to provide bilingual staff or interpreters who speak the appropriate language, the CWA shall insure that the hearing procedures are verbally explained in that language.

4. Responsibilities of the State agency: To the maximum extent possible, a hearing shall be scheduled no later than seven working days after receipt of notification by the CWA of the household's request and held no later than 21 days after the date of the household's request.

5. Office of Administrative Law: Hearings will be scheduled by the Office of Administrative Law (OAL). State level fair hearings will be conducted by an administrative law judge assigned by the Director of the Office of Administrative Law.

6. Shared administrative responsibilities: The Division of Economic Assistance (DEA) and OAL will share responsibilities as follows:

i. Register requests: The DEA shall register each request for a fair hearing on the date which the request is received and forward all requests to OAL within one work day of date received. OAL shall refer all requests made direct to OAL to DEA for registering.

ii. Transmit requests: When received by the DEA, requests shall be transmitted by telephone to the CWA.

iii. Notify household regarding continuation of benefits: Together with notice of the hearing date, the household will be promptly notified by OAL whether or not the household is to continue to receive benefits at an unreduced level pending the outcome of the fair hearing. A copy of this communication will be sent to the DEA and to the CWA.

7. DEA responsibilities regarding the household: A request for a fair hearing shall not be denied or dismissed except under the following circumstances:

i. Untimely request: The request for a hearing is not received within the time interval specified in N.J.A.C. 10:87-8.5.

ii. Withdrawal: The household withdraws the fair hearing request for any reason and the withdrawal is confirmed in writing.

iii. Abandonment: The household abandons its request for a fair hearing.

(1) Abandonment defined: A request for a hearing shall be considered abandoned if neither the household nor its representative appears at the time and place established for the hearing, unless the DEA or CWA received notice not later than the scheduled date of hearing that the household would be unable to attend for reasonable good cause; in such case, the hearing shall be adjourned and re-scheduled. (Good cause is defined in N.J.A.C. 10:87-10.23.) No hearing shall be delayed for a period of more than 30 calendar days under any circumstances except as provided in item (2) below.

(2) Notice of assumption of abandonment: If the household or its representative, fails to appear for a scheduled hearing without having given proper notice, a notice of assumption of abandonment shall be sent to the household. If there is no answer within 10 calendar days, the hearing shall be deemed abandoned. The household shall have the right to present in writing to the DEA directly or through the CWA, such facts or reasons for the failure to appear. The DEA may, determine whether or not the facts so presented by the household or its representative, constitute reasonable good cause, as defined in N.J.A.C. 10:87-10.23 to warrant reinstatement of the hearing.

8. Expedited hearing process: Hearing requests from households, such as migrant farm workers, which plan to move from the county before the hearing decision would normally be reached shall be expedited thus enabling them to receive a decision before they leave the area.

Amended by R.1989 d.121, effective February 21, 1989.
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

Substituted "calendar" for "working" and "expedited" for "expected".

10:87-8.7 Participation during appeal

If a household requests a fair hearing within 15 days of the mailing of an adverse action notice and the certification period has not expired, participation shall be continued consistent with the benefit level authorized immediately prior to the notice of adverse action unless the household specifically waives continuation of benefits. If the request for a fair hearing does not positively indicate that the

household has waived continuation of benefits, the CWA shall assume that continuation of benefits is desired and benefits issued accordingly. If the CWA action is upheld by the hearing decision a claim against the household shall be established for all overissuances.

10:87-8.8 Delayed request

If a hearing request is not made within the period provided by the notice of adverse action, benefits shall be reduced or terminated as stated in the notice. However, if the household established that its failure to make the request within the adverse notice period was for good cause, the CWA shall reinstate the benefits to the prior basis.

10:87-8.9 Reduction or termination due to mass change

(a) When benefits are reduced or terminated due to a mass change, participation on the prior basis shall be reinstated only if the issue being contested is that food stamp eligibility or benefits were improperly computed or Federal law or regulation is being misapplied or misinterpreted by the DFD or the CWA.

(b) When benefits are reduced, suspended or cancelled due to a Federal order, participation on the prior basis, pending the fair hearing, shall be denied.

As amended, R.1981 d.64, effective February 26, 1981.

See: 13 N.J.R. 226(b).

(b) added.

10:87-8.10 Reduction or termination of benefits prior to a hearing decision

(a) Once continued or reinstated, benefits shall not be reduced or terminated prior to a final hearing decision, except as provided below:

1. Expiration of certification: The certification period expires. The household may reapply and may be determined eligible for a new certification period with a benefit amount as determined by the CWA;

2. Preliminary decision: The hearing official makes a determination that the sole issue is one of federal law or regulation and that the household's claim that the CWA improperly computed the benefits or misinterpreted or misapplied such law or regulation policy is invalid;

3. Subsequent change in circumstances: A change affecting the household's eligibility or basis of issuance occurs while the hearing decision is pending and the household fails to request a hearing after the subsequent adverse action; or

4. Subsequent mass change: A mass change affecting the household's eligibility or basis of issuance occurs while the hearing is pending.

10:87-8.11 Prompt notice

The State Agency will promptly inform the household in writing if benefits are reduced or terminated pending the hearing decision.

10:87-8.12 Hearing procedures

The hearing shall be conducted pursuant to the Special Hearing Rules for Division of Family Development cases, N.J.A.C. 1:10, and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

Repeal and New Rule, R.1994 d.42, effective January 18, 1994.
See: 25 N.J.R. 4697(b), 26 N.J.R. 377(a).

10:87-8.13 (Reserved)

Amended by R.1989 d.121, effective February 21, 1989.
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).
Repealed by R.1994 d.42, effective January 18, 1994.
See: 25 N.J.R. 4697(b), 26 N.J.R. 377(a).
Section was "General hearing procedures".

10:87-8.14 Hearing official

The hearing officer shall be an administrative law judge assigned by the Office of Administrative Law. The hearing official shall not be a person who has been connected in any way with the county welfare agency action or inaction which is currently under appeal.

10:87-8.15 Household rights

(a) The household shall have the following rights:

1. Examination of documents: Prior to and at the time of the hearing, the household shall have the right to examine all documents and records which are to be used during the hearing.

2. Contents of case record: The contents of the case record, including the application form and documents of verification used by the CWA to establish the household's ineligibility or eligibility and allotment, shall be made available, provided that confidential information such as the names of individuals who have disclosed information about the household without its knowledge or the nature or status of pending criminal prosecutions is protected from release. Free copies of relevant portions of the case record shall be furnished if requested by the household or its representative.

3. Confidential information: Confidential information which is protected from release and other documents or records which the household will not otherwise have an opportunity to contest or challenge shall not be introduced at the hearing or affect the hearing official's decision.

Amended by R.1994 d.42, effective January 18, 1994.

See: 25 N.J.R. 4697(b), 26 N.J.R. 377(a).

10:87-8.16 County welfare agency rights at hearing

The CWA shall appoint a representative to appear at the hearing.

10:87-8.17 (Reserved)

Repealed by R.1994 d.42, effective January 18, 1994.
See: 25 N.J.R. 4697(b), 26 N.J.R. 377(a).
Section was "Subsequent medical reports".

10:87-8.18 (Reserved)

Repealed by R.1994 d.42, effective January 18, 1994.
See: 25 N.J.R. 4697(b), 26 N.J.R. 377(a).
Section was "The fair hearing report and decision".

10:87-8.19 (Reserved)

Amended by R.1994 d.42, effective January 18, 1994.
See: 25 N.J.R. 4697(b), 26 N.J.R. 377(a).
Section was "The hearing report".

10:87-8.20 Decision on fair hearing

Effective date of decision: The fair hearing decision shall be effective on the date of final decision unless another effective date is designated in the final fair hearing decision.

Amended by R.1994 d.42, effective January 18, 1994.
See: 25 N.J.R. 4697(b), 26 N.J.R. 377(a).

10:87-8.21 Retention of record

An official and complete record of each fair hearing will be maintained in the files of the Division of Family Development for at least three years after the date decision is rendered. The household or its representative may review, upon appointment, all or any part of the official and complete record of his/her fair hearing.

10:87-8.22 Prospective or retroactive action

A decision requiring action by the CWA may apply either prospectively with regard to future action by the CWA or retroactively to the date an incorrect action was taken. If the decision results from mutual agreement of the parties at the hearing, it shall be so stated.

10:87-8.23 Synopsis of decision

The State Division of Family Development will arrange publication of a synopsis of all decisions which will be forwarded to each county welfare agency and all persons who receive this Division's circular letters. Copies of fair hearing decisions, edited to insure household confidentiality, will be available for perusal at the Division office for a period of one year and for distribution to anyone requesting a copy at the cost of printing and handling.

10:87-8.24 Corrective measures

The State Division of Family Development will take such steps as may be necessary to assure that the decision has been carried out. Corrective or remedial measures ordered by a hearing decision, unless otherwise directed in the decision, will be implemented by the local agency immediately upon receipt of the fair hearing decision (see also N.J.A.C. 10:87-8.26(c)).

10:87-8.25 Final administrative action

Final administrative agency action on fair hearing decisions shall be implemented by the local agency within 60 days of the date of the hearing request. However, delay in the hearing process resulting from postponement of a scheduled hearing may extend the time period for local agency corrective action for as many days the hearing is postponed by the household, not to exceed 30 days.

10:87-8.26 CWA responsibilities; fair hearings

(a) Household improperly denied benefits: When the hearing decision is that a household has been improperly denied program benefits or has been issued a lesser allotment than was due, lost benefits shall be provided in accordance with N.J.A.C. 10:87-11.13.

(b) CWA upheld by decisions: When the hearing decision upholds the CWA's action, a claim (when appropriate) shall be prepared against the household for any overissuance in accordance with N.J.A.C. 10:87-11.20.

(c) Decision resulting in an increase in benefits: Decisions which result in an increase in household benefits shall be reflected in the coupon allotment within 10 days of the receipt of the hearing decision even if a supplementary ATP must be issued.

1. Normal issuance falls within 60-day period: If however, the next normal issuance after receipt of the decision occurs within 60 days of a household's request for a hearing, the increase may be reflected in that issuance.

(d) Decision resulting in a decrease in benefits: Decisions which result in a decrease in household benefits shall be reflected in the next scheduled issuance following receipt of the hearing decision.

(e) Decision on a Federally mandated reduction: A household may receive retroactive benefits in an appropriate amount if it is determined that its benefits were reduced by more than the federally authorized amount.

As amended, R.1981 d.64, effective February 26, 1981.
See: 13 N.J.R. 226(b).

(e) added.

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

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

SUBCHAPTER 9. CERTIFICATION RELATED PROCEDURES
10:87-9.1 Recertification

(a) Action on applications for recertification are as follows:

1. The CWA shall complete the application process, if the household meets all requirements, prior to the end of the certification period. Applications received timely shall be approved or denied prior to the end of the household's current certification period including those received during a federally mandated, reduction, suspension or cancellation allotment time frame.

2. An eligible household shall be provided the opportunity to participate by its normal issuance cycle in the month following the end of its current certification period. A household shall lose its right to uninterrupted benefits for failure to attend any interview scheduled on or after the deadline for timely filing of the application for recertification or for failure to submit all necessary verification within the timeframes established by the CWA as long as the timeframe elapse after the deadline for filing a timely application for recertification.

3. The CWA shall provide benefits within 30 days after the date an application is filed for households that lost the right to uninterrupted benefits due to refusal to cooperate or lapsed certification only after the household corrects such failures.

4. Denials including those for failing to complete the interview or provide missing verification timely shall be completed either by the end of the current certification period or within 30 days after the date the application was filed as long as the household has had adequate time for providing the missing verification. Program benefits to the household shall not continue beyond the end of the current certification period unless recertification has been completed or joint processing requirements of N.J.A.C. 10:87-2.36 or 2.37 apply.

(b) Procedures concerning the notice of expiration are as follows:

1. The CWA shall provide each household with a notice of expiration at the end of its certification prior to the start of the last month of the household's certification period. Households whose applications for food stamps and PA were jointly processed will not receive a notice of expiration if the household is recertified for food stamps at the same time as their AFDC redeterminations.

2. A notice of expiration shall be sent to a household to arrive no earlier than one month prior to or later than one day before the household's last month of certification. Households initially certified for one or two months shall be provided the notice of expiration at the time of certification.

3. Non-monthly reporting households provided a notice of expiration at the time of certification shall have 15 days from the date the notice is received to file a timely application for recertification. All other non-monthly reporting households that submit identifiable applications by the 15th day of the last month of certification shall be considered to have made a timely application for recertification.

4. The filing deadline for monthly reporting households shall be the normal date for filing a monthly report. SSI applicant/recipient households which apply for Food Stamp recertification at the SSA/DO shall be considered timely filed for normal processing when the SSA/DO receives the signed application.

5. The CWA shall use the postmark on the notice of expiration plus two days mailing time in determining if adequate time has been afforded the household for filing a timely application for recertification. Households disputing receipt of the notice of expiration may demonstrate that the notice was in fact, not received in a timely manner.

As amended, R.1981 d.64, effective February 26, 1981.

See: 13 N.J.R. 226(b).

"A Federally mandated . . . procedures" added.

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

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

Repealed old text and substituted new.

10:87-9.2 CWA action on timely application for recertification

(a) Scheduling interviews: The CWA shall not require households receiving notices of expiration to appear for an interview before the last month of their current certification period. However, the CWA may schedule an interview prior to the last month of certification period or prior to the date the application is timely filed, provided the household is not denied for failing or refusing to appear for the interview.

1. The CWA shall schedule an interview on or after the date the application was timely filed if an interview has not previously been scheduled or the household failed or refused to appear for any interviews scheduled prior to the date a timely application was filed.

2. Failure to appear for interview: A household which fails without good cause to appear for an interview scheduled after the application is timely filed shall lose its right to uninterrupted benefits, but shall not be denied at that point unless it has refused to cooperate.

(b) Timeliness standards: The CWA shall act on timely reapplications to provide uninterrupted benefits to households determined eligible. The CWA shall take action on timely reapplications within the following time standards even if the CWA must issue a manual ATP:

1. Thirty days after last allotment: Households that were provided a notice of expiration at the time to certification and have timely reapplied shall be notified of their eligibility or ineligibility and provided an opportunity to participate, if eligible, not later than 30 days after the date the household had an opportunity to obtain its last allotment.

2. End of current certification period: For those households that have filed an application by the 15th day of the last month of their certification period, the CWA shall approve or deny the application and notify the household of its determination by the end of the current certification period. In addition, for households determined eligible, the CWA shall provide an opportunity to participate by the household's normal issuance cycle in the month following receipt of the timely reapplication even if the CWA must issue a manual ATP to meet timeliness standards.

3. Delay by CWA: Households which have timely reapplied, but due to CWA error are not determined eligible in sufficient time to provide for issuance in the household's normal issuance cycle for the following month, shall receive an immediate opportunity to participate upon being determined eligible, even if the CWA must issue a manual ATP in order to meet the timeliness standards.

(c) CWA failure to act: Failure by the CWA to provide eligible households which filed a timely application for recertification with an opportunity to participate in accordance with the above provisions shall be considered an administrative error. These households shall be entitled to restoration of lost benefits if, as a result of such error, the household was unable to participate for the month following the expiration of the certification period.

(d) The following procedures apply when a household fails to act:

1. A household which submits a timely application for recertification and meets all other processing steps in a timely manner shall have the right to receive uninterrupted benefits. However, a household which fails to appear for an interview in accordance with the requirements in this section or to submit any missing verification within the CWA timeframes shall lose its right to uninterrupted benefits as long as such failures occur after the deadline for filing a timely application for recertification. Households which refuse to cooperate in providing required information shall be denied.

2. Any application not submitted in a timely manner shall be treated as an application for initial certification, except that for applications received within 30 days after the certification period expires, previously verified income or actual utility expenses of non-monthly reporting households need not be verified if the source has not changed and the amount has not changed by more than \$25.00. The CWA shall ensure that any eligible household which did not submit a timely application for recertification is provided an opportunity to participate within 30 calendar days after the application is filed. If the household's application for recertification is received after the household's certification period has expired, the household's benefits shall be prorated in accordance with N.J.A.C. 10:87-6.3(c). However, households which receive a notice of expiration at the time of certification and which are otherwise eligible shall not have benefits for the first month of the new certification period prorated if they file their applications for recertification by the filing deadline in the notice of expiration.

3. A household which submits a timely application for recertification but is either interviewed and/or submits all verification in an untimely manner (but before the end of its current certification period) need not be provided uninterrupted benefits. For eligible households under these circumstances, the CWA shall, at a minimum, provide the household an opportunity to participate within 30 calendar days after the date the application was filed.

4. If the CWA is unable to provide an eligible household with an opportunity to participate within 30 calendar days after the date the application was filed due to the time period allowed for submitting any missing verification, the CWA shall provide the household an opportunity to participate within 5 working days after the date the household supplies the missing verification.

As amended, R.1984 d.17, effective February 6, 1984.
See: 15 N.J.R. 1821(a), 16 N.J.R. 246(a).

Language added concerning timely completion of redetermination.
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.

10:87-9.3 Notice of eligibility

(a) Every applicant household found eligible shall be provided with a written notice of eligibility as described in the following items as soon as a determination is made but no later than 30 days after the date of the initial application. The notice shall inform the household of the amount of the allotment. The household shall also be advised of variations in the benefit level based on changes anticipated (if any) at the time of certification. If the initial allotment contains benefits for both the month of application and the current month's benefits, the notice shall explain that the initial allotment includes more than one month's benefits, and shall indicate the allotment amount for the remainder of the certification period. The notice shall also inform the

household of beginning and ending dates of the certification period.

(b) Expedited applications: In cases where a household's application is approved on an expedited basis without verification, as provided in N.J.A.C. 10:87-2.32 through 2.35, the notice shall explain that the household must provide the verification that was waived. The notice shall also explain the special conditions of the longer certification period, as discussed in N.J.A.C. 10:87-2.34(a)3 and the consequences of failure to provide the postponed verification.

(c) PA households: For those PA households assigned definite certification periods in accordance with N.J.A.C. 10:87-6.22, the notice shall state that the certification will expire the month following the month the household's AFDC redetermination is due.

As amended, R.1979 d.422, effective October 18, 1979.

See: 11 N.J.R. 379(a), 11 N.J.R. 559(d).

As amended, R.1984 d.17, effective February 6, 1984.

See: 15 N.J.R. 1821(a), 16 N.J.R. 246(a).

Indefinite changed to definite certification periods.

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.

10:87-9.4 Recertification/denial/pending notice

(a) The CWA shall provide households that have filed an application by the 15th of the last month of their certification period with either a notice of eligibility or a notice of denial by the end of the current certification period. The CWA shall provide households that have received a notice of expiration at the time of certification and have timely reapplied, with either a notice of eligibility or a notice of denial not later than 30 days after the date the household had an opportunity to obtain its last allotment.

(b) If an application is denied, the CWA shall provide the household with written notice explaining the basis for the denial. This requirement shall be accomplished by use of the "Adverse Action Notice". The notice shall be sent as soon as possible, but not later than 30 days following the date the application was filed.

(c) If the household's application is placed in pending status, the CWA shall send an "Adverse Action Notice" informing the household what action is necessary to complete the application process and that the application will be denied if the household fails to take the required action within 60 days of the date the application was filed.

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

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

This section originally consisted of three sections 9.4 "Recertification: notice" which is now (a); 9.5 "Notice of denial" which is now (b) and 9.6 "Notice of pending status" which is now (c).

10:87-9.5 Changes

(a) When changes occur within the certification period which affect a household's eligibility or coupon allotment, action must be taken to adjust the household's eligibility.

(b) Household responsibilities:

1. Changes to be reported: Certified households are required to report the following changes within 10 days of the date the change becomes known to the household:

i. Income: Changes in the sources of income or in the amount of gross monthly income of more than \$25.00, except changes in the AFDC grant;

NOTE: The Social Security Administration (SSA) does not provide the recipient of SSI with written notification as to whether the overpayment was due to unintentional or intentional causes. Also for most SSI overpayment recoveries, the nature of the recovery cannot be ascertained and would therefore not be available to the CWA. The CWA shall not count the amount of the SSI overpayment recovery in computing the Food Stamp benefit unless readily available reliable information verifies that an SSI overpayment recovery was due to recipient fraud or intentional failure to comply with program regulations.

ii. Household composition: All changes in household composition, such as the addition or loss of a household member (see N.J.A.C. 10:87-2.2 and 2.3);

iii. Residence: Changes in residence and the resulting change in shelter costs;

iv. Acquisition of vehicle: The acquisition of a licensed vehicle not fully excludable under N.J.A.C. 10:87-4.72(a)1; and

v. Liquid resources: When cash on hand, stocks, bonds and money in a bank account or savings institution reach or exceed a total of \$2,000, or \$3,000 for households with members 60 years of age and older.

vi. Medical expenses: When the household's monthly medical expenses change by more than \$25.00.

2. Method of reporting: The change may be reported in person, by telephone or by mail. The CWA shall document the date a change is reported, which shall be the date the CWA receives a report form or is advised of the change over the telephone or by a personal visit. PA households which report a change in circumstances shall be considered to have reported the change for food stamp purposes. CWAs shall provide households with either a toll-free telephone number, a number at which collect telephone calls will be accepted, or a number within each household's local calling area which recipients may utilize to either obtain information or report changes. Those telephone numbers shall be identified on the Change Report Forms and Notices of Adverse Action which the CWAs issue.

3. Failure to report: If the CWA discovers that the household failed to report a change as required by (b)1 above and as a result, received benefits to which it was not entitled, the CWA shall file a claim against the household in accordance with N.J.A.C. 10:87-11.23 et seq. If the discovery is made within the certification period, the household is entitled to a notice of adverse action if the household's benefits are reduced. A household shall not be held liable for a claim because of a change in household which it is not required to report per (b) above. Individuals shall not be terminated for failing to report a change, unless the individual is disqualified in accordance with the intentional program disqualification procedure specified in N.J.A.C. 10:87-11.1 and 2.

(c) CWA responsibilities: The CWA shall not impose any food stamp reporting requirement on a household except as noted above. Neither shall the CWA treat the submission of the report of change as a waiver of the household's right to a notice of an adverse action.

1. Change report form: A change report form and FCAL Explanation Sheet FSP-933 shall be provided to newly certified households at the time of certification, at recertification if the household needs a new form; and a new form shall be sent to the household whenever a change report form is returned by the household. The CWA shall provide a stamped self-addressed envelope with the form. Although households should be encouraged to complete and return the change form when a change is being reported, changes reported over the telephone or in person by the household shall be acted on in the same manner as those reported on the change report form.

2. Action on reported change: The CWA shall advise the household of its responsibilities to report changes within the required time period. The CWA is required to take prompt action on all changes reported by the household to determine if the change affects the household's eligibility or allotment. Even if there is no change in allotment, the CWA shall document the change in the case record, provide another change report form to the household, and notify the household of the receipt of the change report and effect of the change, if any, on its benefits. Restoration of lost benefits shall be provided to any household if the CWA fails to take action on a change which increases benefits within the time limits specified below.

i. Changes which increase benefits: For changes which result in an increase in a household's benefits, other than changes described in ii below, the CWA shall make the change effective not later than the first allotment following the 10th day after the date the change was reported to the CWA. For example, a \$30.00 decrease in income reported on the 15th day of May would increase the household's June allotment. If the same decrease were reported on May 28, and the household's normal issuance cycle was on June 1, the household's allotment would have to be increased by July.

ii. Changes which increase benefits and require issuance of a supplementary ATP: For changes which result in an increase in a household's benefits due to the addition of a new household member who is not a member of another certified household, or due to a decrease of \$50.00 or more in the household's gross monthly income, the CWA shall make the changes effective no later than the first allotment issued 10 days after the date the change was reported. However, in no event shall these changes take effect any later than the month following the month in which the change is reported. Therefore, if the change is reported after the 20th of a month and it is too late for the CWA to adjust the following month's allotment, the CWA shall issue a supplementary ATP by the 10th day of the following month.

(1) Changes which must be effective in same month: For those changes which must be made effective in the same month the household reported the change, the CWA shall either replace the household's ATP or issue a supplementary ATP. If the household has already participated, the CWA shall issue a supplementary ATP.

(2) Changes which must be effective at next recertification: When a household's circumstances change and it becomes entitled to a different income eligibility standard, the CWA shall apply the different standard at the next recertification or whenever the CWA changes the household's eligibility, benefit level, or certification period, whichever occurs first.

(3) Verification: Verification required by N.J.A.C. 10:87-2.20 through 2.23, must be obtained prior to the issuance of the second normal monthly allotment after the change is reported. If the household does not provide verification, the household's benefits will revert to the original benefit level. In cases where the CWA has determined that a household has refused to cooperate, as defined in N.J.A.C. 10:87-2.14 through 2.17, the CWA shall terminate the household's eligibility. The CWA shall issue a supplementary ATP by the 10th day of the following month. If the CWA increases a household's benefits to reflect a reported change but subsequent verification indicates that the household was entitled to fewer benefits, the CWA shall establish a claim.

iii. Changes that reduce benefits: If the household's benefit level decreases or the household becomes ineligible as a result of the change, the CWA shall issue a notice of adverse action within 10 days of the date the change was reported, unless one of the exemptions to the notice of adverse action in (g) and (h) below applies. The decrease in the benefit level shall be made effective no later than the allotment for the month following the month in which the notice of adverse action period has expired, provided a fair hearing and continuation of benefits have not been requested. Verification required by N.J.A.C. 10:87-2.20 through 2.23, must be obtained prior to recertification.

3. Mass changes: Certain changes are initiated by the State or Federal government which may affect the entire caseload or significant portions of the caseload. These changes include annual adjustments to the net income eligibility standards and the shelter/dependent care deduction; adjustments to the maximum coupon allotment and standard deduction; seasonal adjustments to the utility standard; periodic cost-of-living adjustments to Social Security, SSI and other Federal benefits; federally mandated reductions, suspensions, or cancellations of food stamp benefits; periodic adjustments to AFDC and other changes in the eligibility criteria based on legislative or regulatory actions.

(d) Food stamp program changes: These include Federal adjustments to eligibility standards, allotments and deductions; federally mandated reductions, suspensions, or cancellations of food stamp benefits, and State adjustments to utility standards. These adjustments shall go into effect for all households at a specific point in time. Adjustments to the maximum coupon allotment, shelter/dependent care deduction and the standard deduction shall be effective for all issuances in October. Annual adjustment to the income eligibility standards shall be effective for all October issuances. Adverse action notices are not required for such changes. However, prior publicity of adjustments shall be made through news media, by placing posters in certification offices, issuance locations or sites frequented by certified households, or by issuing general notices mailed to households.

1. Utility standard changes: Households whose certification periods overlap a seasonal variation in the utility standard shall be advised at the time of initial certification when the adjustment will occur and what the variation in the benefit level will be, if known.

(e) Mass changes in AFDC: When the State makes an overall adjustment to AFDC payments, corresponding adjustments in the household's food stamp benefits shall be handled as a mass change. When the CWA has at least 30 days advance knowledge of the amount of the AFDC adjustment, the CWA shall recompute food stamp benefits to be effective in the same month as the AFDC change. If the CWA does not have sufficient notice, the food stamp change shall be effective not later than the month following the month in which the AFDC change was made.

1. Notice not required: A notice of adverse action is not required when a household's food stamp benefits are reduced or terminated as a result of a mass change in the PA grant. However, the CWA shall send individual notices to households to inform them of the change. If a household requests a fair hearing, benefits shall be continued at the former level only if the issue being appealed is that food stamp eligibility or benefits were improperly computed.

(f) DEA shall establish procedures for making mass changes to reflect COLAs in benefits and any other mass changes under RSDI, SSI, and other programs where COLA information is readily available and applicable to a majority of those program's beneficiaries. Households on retrospective budgeting but not monthly reporting shall have the change reflected in accordance with current procedures. MR households shall report the change only on the appropriate monthly report. Non-MR households are not responsible for reporting these changes. The CWA shall be responsible for automatically adjusting the household's benefit level and the change shall be reflected no later than the second allotment issued after the month in which the change becomes effective for non-MR reporting households.

(g) Households shall be notified whenever their benefits are altered as a result of changes in the AFDC benefits or whenever the food stamp certification period is shortened to reflect changes in the household's circumstances. The household's certification period shall not end any earlier than the month following the month in which the CWA determines that the certification period should be shortened, allowing adequate time to send a notice of expiration and for the household to timely reapply. If the AFDC benefits are terminated but the household is still eligible for food stamp benefits, members of the household shall be advised of food stamp work registration requirements, if applicable, as their work requirement under Title IV of the Social Security Act exemption no longer applies.

(h) Whenever a change results in the reduction or termination of a household's AFDC benefits within its food stamp certification period, and the CWA has sufficient information to determine how the change affects the household's food stamp eligibility and benefit level, the CWA shall:

1. Issue a single notice of adverse action for both the AFDC and food stamp actions. If the household requests a fair hearing within the period provided by the notice of adverse action, the household's food stamp benefits shall be continued on the basis authorized immediately prior to sending the notice. If the fair hearing is requested for both programs' benefits, the hearing shall be conducted according to AFDC procedures and timeliness standards. However, the household must reapply for food stamp benefits if the food stamp certification period expires before the fair hearing process is completed. If the household does not appeal, the change shall be made **effective** in accordance with the procedures specified in (c) above.

2. If the household's food stamp benefits will be increased as a result of the reduction or termination of AFDC benefits, the CWA shall issue the PA notice of adverse action, but shall not take any action to increase the household's food stamp benefits until the household decides whether it will appeal the adverse action. If the household decides to appeal and its AFDC benefits are continued, the household's food stamp benefits shall continue on the previous basis. If the household does not appeal, the CWA shall make the change effective in accordance with the procedures specified in (c) above, except that the time limits for the CWA to act on changes which increase a household's benefits shall be calculated from the date the PA notice of adverse action period expires.

(i) Whenever a change results in the termination of a household's AFDC benefits within its food stamp certification period, and the CWA does not have sufficient information to determine how the change affects the household's food stamp eligibility and benefit level (such as when an absent parent returns to a household, rendering the household categorically ineligible for public assistance, and the CWA does not have any information on the income of the new household member), the CWA shall not terminate the household's food stamp benefits but take the following action:

1. Where a PA notice of adverse action has been sent, the CWA shall wait until the household's notice of adverse action period expires or until the household requests a fair hearing, whichever occurs first. If the household requests a fair hearing and its AFDC benefits are continued pending the appeal, the household's food stamp benefits shall be continued on the same basis.

2. If a PA notice of adverse action is not required, or the household decides not to request a fair hearing and continuation of its AFDC benefits, the CWA shall send the household a notice of expiration which informs the household that its certification period will expire at the end of the month following the month the notice of expiration is sent and that it must reapply if it wishes to continue to participate. The notice of expiration shall also explain to the household that its certification period is expiring because of changes in its circumstances which may affect its food stamp eligibility and benefit level.

(j) Notice of adverse action: Prior to any action to reduce or terminate a household's benefits within the certification period, the CWA shall, provide the household timely and adequate advance notice before the adverse action is taken.

1. Timing of the notice: The notice of adverse action will be considered timely provided it is mailed at least 10 days prior to the date upon which the action becomes effective.

(k) Changes not requiring advance notice: Individual notices of adverse action are not required when:

1. Mass change: The State initiates a mass change as described in (f), (g) and (h) above.

2. Notice of death: The CWA determines, based on reliable information, that all members of a household have died.

3. Move from project area: The CWA determines, based on reliable information, that the household has moved from the county.

4. Completion of restoration of lost benefits: The household has been receiving an increased allotment to restore lost benefits, the restoration is complete, and the household was previously notified in writing of the date increased allotment would terminate.

5. Anticipated changes in the monthly allotment: The household's allotment varies from month to month within the certification period to take into account changes which were anticipated at the time of certification, and the household was so notified at the time of certification.

6. Disqualification for intentional program violation: A household member is disqualified for intentional program violation in accordance with N.J.A.C. 10:87-11.1 or the benefits of the remaining household members are reduced or terminated to reflect the disqualification of that household member. The notice requirement for individuals or households affected by intentional program violation disqualifications are explained in N.J.A.C. 10:87-7.14(d) and 11.1.

7. Benefit reduction upon approval of the household's AFDC grant application: The household jointly applied for AFDC and food stamp benefits and has been receiving food stamp benefits pending the approval of the AFDC grant and was notified at the time of certification that food stamp benefits would be reduced upon approval of the AFDC grant.

8. Benefit reduction to the original benefit level due to lack of verification: The household has received an increased allotment pending verification of a reported change. If the household does not provide verification prior to the next issuance of its food stamp allotment, the household's allotment will revert to the original allotment.

9. Disqualified drug/alcoholic treatment center or group living arrangement facility: Residents of a treatment center or group living arrangement which lost its certification from the appropriate State agency.

10. Converting household from cash and/or food stamp coupon repayment to benefit reduction: The household's food stamp allotment is reduced to repay a claim as a result of failure to make agreed upon installment payments in cash and/or food stamp coupons (see N.J.A.C. 10:87-11.31(c)3).

11. The household voluntarily requests in writing, or in the presence of a caseworker that its participation in the Food Stamp program be terminated. The CWA shall respond to all non-written requests by sending the household a letter confirming the voluntary withdrawal. Households provided written confirmation of voluntary withdrawal from the Food Stamp program may request a fair hearing.

12. The CWA determines, based on reliable information that the household is departing from the county of current residence prior to the next issuance and therefore will not be able to obtain and negotiate its next allotment. While the CWA may inform the household before its next issuance date, they shall not delay terminating the household's participation in order to provide advance notice.

Amended by R.1979 d.459, effective January 1, 1980.
See: 12 N.J.R. 40(c).

(a)1i: Added (6).

Amended by R.1980 d.117, effective March 19, 1980.
See: 11 N.J.R. 517(a), 12 N.J.R. 194(b).

(a)2ii: In third sentence, added "receipt of the change report and the"; added subparagraph (1) and renumbered (1)-(2) as (2)-(3).
(c): Added paragraph 8.

Amended by R.1981 d.64, effective January 26, 1981.
See: 13 N.J.R. 226(b).

Substantially amended.

Amended on an emergency basis, R.1981 d.398, eff. September 30, 1982 (oper. October 1, 1981), exp. November 30, 1981. See: 13 N.J.R. 769(a). Readopted, R.1981 d.517, eff. December 31, 1981. See: 13 N.J.R. 769(a), 14 N.J.R. 103(a).

(a)2ii 2(B) added and existing (B) renumbered as (C).

Amended by R.1982 d.473, effective January 3, 1983.
See: 14 N.J.R. 1037(a), 15 N.J.R. 34(a).

Treatment of disqualified facilities enumerated.

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, eff. March 31, 1983, operative April 1, 1983. The amendment is pursuant to the Food Stamp Act Amendment of 1982 (P.L. 97-253) and the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35).

"Fraud" replaced by "intentional program violation"; reduction of benefit due to household failure to repay.

Amended by R.1985 d.346, effective July 1, 1985.

See: 17 N.J.R. 883(a), 17 N.J.R. 1659(a).

"CWA" substituted for "State agency". (a)11 added.

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.1990 d.270, effective May 21, 1990.

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

Stylistic revisions to text.

In (k)9: deleted language regarding FNS disqualification.

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

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

At (b)2: added new text regarding CWA's provision of telephone number for households.

At (c)2ii(3): added text regarding a supplementary ATP.

10:87-9.6 Identification (ID) cards

(a) The CWA shall issue an ID card to each certified household as proof of program eligibility. The ID shall be issued in the name of the household member to whom the ATP is issued. That household member and any authorized representative shall sign the card. If the household does not name an authorized representative, the CWA shall indicate on the ID that no designation was made.

(b) Limited issuance: The CWA shall limit issuance of ID cards to the time of initial certification, with replacements made only in instances of loss, mutilation, destruction, or changes in persons authorized to obtain or use coupons.

(c) Expiration date: The CWA shall place an expiration date only on those ID's issued to households that have been certified for delivered meals for a temporary period.

(d) Special designations: Specially marked ID cards shall be issued as follows:

1. Delivered meals: Any household eligible for and interested in using delivered meal services shall receive an ID card marked with letter "M".
2. Communal dining: Any household eligible for and interested in using communal dining facilities shall receive an ID card marked with the letters "CD".

(e) Photograph: Upon household consent, the CWA shall place a photograph on the ID to facilitate identification of program participants. However, the CWA shall not deny or delay benefits because household members are unable or refuse to be photographed.

(f) All program coupon issuers in CWAs having more than 100,000 persons participating are required to record the ID card serial number on the back of the ATP card at the time the ATP is negotiated. If the issuer fails to do so and an excessive issuance results, the issuer will be held liable for the amount issued. An excessive issuance may occur either due to a CWA error or when an original and replacement ATP are both cashed during the same transaction month. The liability for excessive issuances is determined as follows:

1. If none of the ATP cards issued to a household reflects the household's correct ID card number, (that is, if they are blank or have an incorrect number recorded on the back), the issuer will be liable to the CWA for all of the ATP cards transacted for that household.
2. If one of the transacted ATP cards reflects the household's correct ID card number, and the others are either blank or have an incorrect number recorded on the back, the issuer will be liable to the CWA for those ATP cards which are either blank or have an incorrect number.

As amended, R.1980 d.117, effective March 19, 1980.
See: 11 N.J.R. 517(a), 12 N.J.R. 194(b).

(a): In last sentence, added "not".

Amended by R.1989 d.121, effective February 21, 1989.
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

This section 9.6 was originally "Notice of pending status" and the text was repealed.

10:87-9.7 Replacement of benefits

(a) Rules on providing replacement issuances are as follows:

1. Subject to the restrictions in (b) below, CWAs shall provide replacement issuances to a household when the household reports that:

- i. The ATP was not received or was stolen from the mail, was stolen after receipt, was destroyed in a household misfortune, or was improperly manufactured or mutilated;
- ii. The coupons were not received in the mail, were stolen from the mail, were destroyed in a household misfortune, or were improperly manufactured or mutilated;
- iii. Food purchased with food stamps was destroyed in a household misfortune; or
- iv. The household received a partial coupon allotment in the mail.

2. CWAs shall not provide replacement issuances to households when coupons are lost, stolen or misplaced after receipt, when ATPs are lost or misplaced after receipt, when ATPs or coupons are totally destroyed after receipt in other than a disaster or misfortune, or when coupons sent by registered or certified mail are signed for by anyone residing with or visiting the household. In addition, replacement issuances shall not be made if the household or its authorized representative has not signed and returned the household statement required in (c) below where applicable.

3. Where FNS has issued a disaster declaration and the household is eligible for emergency food stamp benefits, the household shall not receive both the disaster allotment and a replacement allotment for a misfortune.

4. In order for a replacement to be considered non-countable, the replacement must not result in a loss to the program.

(b) Rules on replacement restrictions are as follows:

1. Replacement issuances shall be provided only if a household timely reports a loss orally or in writing, and provides a statement of nonreceipt if the original ATP or allotment has not been returned to the CWA at the time of request for replacement. The report shall be considered timely if it is made to the CWA within 10 days of the date an ATP is stolen from the household, or an ATP, coupons, or food purchased with food stamps is destroyed in a household misfortune. For a claim of nondelivery by the mail, the report must be made within the period of intended use. (If the issuance was made after the 15th of the month, the period of intended use is the last day of the next month.)

2. The number of replacement issuances which a household may receive shall be limited as follows:

i. CWAs shall limit replacement issuances to a total of two countable replacements in six months for ATPs or coupons not received in, or stolen from, the mail, ATPs stolen after receipt, and partial coupon allotments. Separate limits shall not apply for each of the above types of loss. Losses of combined issuances, as defined at N.J.A.C. 10:87-2.30(b)3, shall be treated as one incident of loss.

ii. CWAs shall limit replacement issuances per household to two countable replacements in six months for ATPs or coupons reported as destroyed in a household misfortune. This limit is distinct from the limit in (b)2i above.

iii. No limit on the number of replacements shall be placed on the replacement of ATPs or coupons which were improperly manufactured or mutilated or food purchased with food stamp benefits which was destroyed in a household misfortune.

iv. The replacement issuance shall not be considered a countable replacement if:

- (1) The original or replacement issuance is returned or otherwise recovered by the CWA;
- (2) The original ATP is not transacted;
- (3) The replacement ATP is not transacted; or
- (4) The replacement is being issued due to an issuance error.

3. Replacement issuances shall be provided in the amount of the loss to the household, up to a maximum of one month's allotment, unless the issuance includes restored benefits which shall be replaced up to their full value.

(c) Rules on the household statement of nonreceipt are as follows:

1. Prior to issuing a replacement, the CWA shall obtain from a member of the household a signed statement attesting to the household's loss. This statement shall not be required if the reason for the replacement is that the original ATP or coupons were improperly manufactured or mutilated, or if the original issuance has already been returned. The required statement may be mailed to the CWA if the household member is unable to come into the office because of age, handicap or distance from the office and is unable to appoint an authorized representative.

2. If the signed statement or affidavit is not received by the CWA within 10 days of the date of report, no replacement shall be made. If the 10th day falls on a weekend or holiday, and the statement is received the day after the weekend or holiday, the CWA shall consider the statement timely received.

3. The statement shall be retained in the case record. It shall attest to the nonreceipt, theft, loss or destruction

of the original issuance and specify the reason for the replacement. It shall also state that the original or replacement issuance will be returned to the CWA if the original issuance is recovered by the household and that the household is aware of the penalties for intentional misrepresentation of the facts including, but not limited to, a charge of perjury for a false claim. In addition, the statement shall advise the household that:

i. The household may request to be placed on an alternate issuance system after one report of nonreceipt;

ii. After two reports in a six-month period of loss or theft prior to receipt, the household shall be placed on an alternate delivery system;

iii. After two reports in a six-month period of loss or theft prior to receipt and/or theft of an ATP after receipt, the CWA may delay or deny further replacements for such causes; and

iv. If the statement of nonreceipt is not signed and returned within 10 days of the date the loss was reported, the CWA shall not replace the coupons or ATP.

(d) Provisions concerning the time limits for making replacements are as follows:

1. Replacement issuances shall be provided to households within 10 days after report of nondelivery or loss (15 days if issuance was by certified or registered mail) or within two working days of receiving the signed household statement required in (c) above, whichever date is later.

i. Replacement of mutilated coupons shall be delayed until a determination of the value of the coupons can be made in accordance with (f)4 below.

ii. If the household has already been issued the maximum allowable number of countable replacements, subsequent replacements shall be delayed until the agency has verified that the original ATP was not transacted. In a system using ATPs, it may not be known at the time of the replacement request whether prior replacements are countable replacements and, therefore, whether the household has reached its limit. In such cases, the allotment shall be restored when the CWA verifies that the limit on countable replacements has not been reached.

iii. The CWA shall deny or delay replacement issuances in cases in which available documentation indicates that the household's request for replacement appears to be fraudulent.

2. The household shall be informed of its right to a fair hearing to contest the denial or delay of a replacement issuance. Replacements shall not be made while the denial or delay is being appealed.

(e) CWAs shall comply with the following procedures in replacing issuances reported lost in the mail or stolen prior to receipt by the household:

1. Determine if the ATPs or benefits were validly issued, if they were actually mailed, and if sufficient time has elapsed for delivery or if they were returned in the mail. If a delivery of a partial allotment is reported, the CWA shall determine the value of the coupons not delivered and determine whether the report of receipt of a partial allotment is corroborated by evidence that the coupon loss was due to damage in the mail before delivery or by a discrepancy in the issuance unit's inventory;

2. Determine, to the extent possible, the validity of the request for a replacement. This includes determining whether the original issuance has been returned to the CWA, whether the original ATP has been transacted and, if so, whether the recipient's signature on the ATP matches the signature on the ID card. In a photo ID area, the CWA shall determine if the ID serial number annotated on the ATP matches the serial number on the recipient's ID card;

3. Issue a replacement in accordance with (b) through (d) above if the household is eligible;

4. Place the household on an alternate delivery system, if warranted, in accordance with (g) below; and

5. Take other action, such as correcting the address on the FAMIS file, warranted by the reported nondelivery.

(f) Upon receiving a request for replacement of an issuance reported as stolen or destroyed after receipt by the household, the CWA shall determine if the issuance was validly issued. The CWA shall also comply with all applicable provisions in (b) through (d) above, as well as the following procedures for each type of replacement:

1. Prior to replacing an ATP which was reported stolen after receipt by the household, the CWA shall determine, to the extent possible, the validity of the request for replacement. For example, the CWA may determine whether the original ATP has been transacted and, if so, whether the signature on the original ATP matches that on the household statement. Where the use of a photo ID is mandated, the CWA shall determine if the ID serial number annotated on the ATP matches the serial number on the recipient's ID card. Any replacement which results in duplicate participation shall be considered a household error, and the replacement countable, when the ID serial number shown on the ATP matches the serial number on the recipient's card, unless the ID card was reported lost or stolen prior to the replacement. The CWA may require households, on a case-by-case basis, to report the theft to a law enforcement agency and to provide verification of such report.

2. Prior to replacing destroyed ATPs, coupons, or food purchased with food stamp benefits, the CWA shall determine that the destruction occurred in a household misfortune or disaster, such as, but not limited to, a fire or flood. This shall be verified through a collateral contact, documentation from a community agency including, but not limited to, the fire department or the Red Cross, or a home visit. The CWA shall provide replacements of coupons, ATPs and/or food in the actual amount of the loss, but not exceeding one month's allotment, unless the exception in (b)3 above applies.

3. Households cannot receive a replacement for coupons lost or stolen after receipt.

4. The CWA shall provide replacements for improperly manufactured or mutilated coupons or ATPs as follows:

- i. Coupons received by a household, and subsequently mutilated or found to be improperly manufactured, shall be replaced in the amount of the loss to the household, but not to exceed one month's allotment. CWAs shall replace mutilated coupons when at least three-fifths of a coupon is presented by the household. The CWA shall replace improperly manufactured or mutilated coupons in accordance with N.J.A.C. 10:87—Appendix A, Section A(3).

- ii. ATPs received by a household and subsequently mutilated or found to be improperly manufactured shall be replaced only if they are identifiable. "Identifiable" means that the CWA is able to determine the amount of the issuance and that the ATP was valid when the household reported that the ATP was mutilated or mismanufactured. For example, if the ATP serial number is legible, the CWA can determine from the record-for-issuance or manual authorization document log to which household the ATP was issued, the date of issuance, and the amount. Similarly, if the case number and validity period are legible, the CWA may be able to determine to whom the ATP was issued and the amount. If more than one ATP was issued to the household and the CWA cannot determine which ATP was mutilated, the replacement shall be issued in the lesser amount. Improperly manufactured or mutilated ATPs shall be surrendered to the CWA.

(g) The CWA shall offer to place a household in an alternate issuance system after the first report of nonreceipt, or when circumstances exist that indicate that the household may not receive its benefits through the normal issuance system, such as when a household has a history of reported nonreceipt of ATPs. After two requests for replacement of original or replacement ATPs reported as nondelivered in a six-month period, the CWA shall issue benefits to that household under an alternate issuance system. The two requests may be for either an original or a replacement ATP. The CWA shall keep the household on the alternate issuance system for the length of time the CWA determines to be necessary. The CWA may return the household to the regular issuance system if the CWA finds that the circumstances leading to the loss have changed and the risk of loss has lessened. The placement of a household on an alternate issuance system and the length of time the household is on this system is not subject to the fair hearing process.

(h) Provisions concerning the documentation and reconciliation of replacement issuances are as follows:

1. The CWA shall document in the household's case file each request for replacement, the date, the reason, and whether or not the replacement was provided. This information may be recorded exclusively on the household statement required in (c) above.

2. The CWA shall maintain, in readily-identifiable form, a record of the replacements granted to the household, the reason, the month, and whether the replacement was countable as defined in (b)2iv above. The record may be a case action sheet maintained in the case file, notations on the master issuance file, if readily accessible, or a document maintained solely for this purpose. At a minimum, the system shall be able to identify and differentiate among:

i. ATPs or coupons not received in, or stolen from, the mail, and ATPs stolen after receipt; and

ii. Replacement issuances which are not subject to a replacement limit.

3. Upon completion of reconciliation in a system utilizing ATPs, the CWA shall update the record required in (h)2 above to indicate whether both the original and replacement ATPs were transacted. If both were not transacted, the record shall clearly indicate that the replacement ATP was not a countable replacement.

4. When a request for replacement is made late in an issuance month, the replacement will be issued in a month subsequent to the month in which the original ATP was issued. All replacements shall be posted and reconciled to the month of issuance of the replacement and may be posted to the month of issuance of the original ATP, so that all duplicate transactions may be identified.

(i) The CWA shall take the following further actions on replacement issuances:

1. On at least a monthly basis, the CWA shall report to the appropriate office of the Postal Inspection Service all ATPs reported as stolen or lost in the mail. The CWA shall assist the Postal Service during any investigation thereof and shall, upon request, supply the Postal Service with facsimiles of the original ATP, if transacted, and the replacement ATP and a copy of the nonreceipt statement. The CWA shall advise the Postal Service if the original ATP is not transacted.

2. When a duplicate replacement ATP is transacted, the CWA shall, at a minimum:

i. Compare the handwriting on the ATPs to documents contained in the household's case file, including the nonreceipt statement;

ii. Establish a claim in accordance with N.J.A.C. 10:87-11 where it appears that the household has transacted or caused both ATPs to be transacted; and

iii. Refer the matter to the CWA's investigation unit, where indicated.

Amended by R.1980 d.117, effective March 19, 1980.

See: 11 N.J.R. 517(a), 12 N.J.R. 194(b).

(c)1i: Changed "is currently certified" to "was properly issued the ATP".

Repealed and replaced, R.1982 d.474, effective January 3, 1983.

See: 14 N.J.R. 1081(b), 15 N.J.R. 35(a).

Limitations established on the issuance of replacement ATPs and coupons reported lost, stolen or destroyed.

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 and recodified from 9.16. The original 9.7 was "Changes".

Repeal and New Rule, R.1989 d.464, effective September 5, 1989.

See: 21 N.J.R. 1636(a), 21 N.J.R. 2790(a).

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

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

In (b)1: changed from "19th" to "15th" of the month.

In (b)2i: added sentence regarding losses of combined issuances.

Case Notes

Lost or stolen ATP. M.A. v. Union County Board of Social Services, 2 N.J.A.R. 390, (1980).

10:87-9.8 Miscellaneous administrative procedures

(a) Personnel staffing: The CWA shall provide qualified employees as necessary to insure prompt and correct action on all applications. If necessary, bilingual staff shall be employed as required by DEA pursuant to FNS bilingual staffing requirements. Only such qualified employees shall interview applicants and determine the household's eligibility or ineligibility and basis of issuance. Additionally, unless prior approval is obtained from DEA, certification offices with more than two eligibility workers shall schedule food stamp certification services so that there is no break in service during the lunch period. Furthermore, only authorized employees of the CWA shall have access to food coupons, ATPs, or other issuance documents.

(b) **Volunteers:** A volunteer, or any other person not employed by the CWA shall not conduct application interviews. However, such persons may participate in the following activities:

1. **Information activities:** Volunteers may locate potential recipients (through prescreening workshops, etc.), provide them with application forms, provide transportation to the Food Stamp Office, teach Nutritional Education (if requested), and generally promote the Food Stamp Program.

2. **Assisting applicants:** If requested to do so by the applicant, a volunteer may assist the household in completing relevant forms and in securing needed verification.

3. **Act as authorized representatives:** If a household is unable to apply for benefits in person, a volunteer may serve as an authorized representative for that household provided that volunteer has been designated as such by the head of household, spouse, or any other responsible member of the household.

(c) **Strikers:** Persons or organizations who are parties to a strike or lock-out, and their facilities may not be used in the certification process except as a source of verification for information supplied by the household.

(d) Each CWA is responsible for the timely and accurate issuance of benefits to certified households. Households comprised of elderly or disabled members who have difficulty reaching an issuance office to obtain their coupon allotments, and households which do not reside in a permanent dwelling or at a fixed mailing address, shall be given assistance in obtaining their coupons. The CWA shall assist these households by arranging for mail issuance or direct delivery of coupons, by assisting the household in finding authorized representatives who can act on their behalf or by using other appropriate means to assure delivery of benefits. The Division of Economic Assistance shall establish a standardized issuance and accountability system applicable to all counties which will ensure compliance with Food Stamp Program procedures as follows:

1. That only certified households receive benefits;
2. All certified households have access to their benefits;
3. The benefits are timely distributed in correct amounts;
4. Coupons are accepted and stored with adequate security after delivery to receiving points within the county; and
5. Coupon issuance and reconciliation activities are conducted timely and accurately.

As amended on an emergency basis, R.1981 d.398, effective September 30, 1981 (operative October 1, 1981), expires November 30, 1981. See: 13 N.J.R. 769(a). Recodified, R.1981 d.517, effective December 31, 1981.

See: 13 N.J.R. 769(a), 14 N.J.R. 103(a).

(b)1 "Information activities" was "outreach efforts". As amended, R.1981 d.64, effective February 26, 1981. See: 13 N.J.R. 226(b).

(d) added.

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 and recodified from 9.17. The original section 9.8 was "Reporting of illegal aliens". The following are amendments to that section:

As amended, R.1980 d.117, effective March 19, 1980.

See: 11 N.J.R. 517(a), 12 N.J.R. 194(b).

(a)4: Added "California".

As amended, R.1984 d.17, effective February 6, 1984.

See: 15 N.J.R. 1821(a), 16 N.J.R. 246(a).

This section formerly contained rules on the sixty day continuation of verification.

10:87-9.9 Case records

(a) The CWA shall keep such records and other information as may be required by FNS and the DPW.

(b) **Retention of case records:** Case records shall be available for review or audit by FNS and the Division of Public Welfare for a period of three years from the date of last activity of each record.

(c) **Content of case records:** The case record shall include applications for certification or recertification; worksheets used in the computation of income for eligibility and basis of issuance; documentation, including verification techniques employed by the certification worker; copies of forms sent to data processing authorizing or changing participation or basis of issuance; copies of notices of adverse action and other notices sent to the household and replies thereto; actions related to the fair hearing process; fiscal adjustments including claims, refunds, and credits for lost benefits; and any other data which affects a household's eligibility or basis of issuance.

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

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

This section was recodified from 9.18. The original section 9.9 was reserved and the amendments to that section follow:

Repealed, R.1984 d.17, effective February 6, 1984.

See: 15 N.J.R. 1821(a), 16 N.J.R. 246(a).

This section formerly contained the rules entitled "Responsibilities of the former CWA".

10:87-9.10 Security and control of ATPs

(a) The CWA shall maintain a supply of blank ATPs in quantity sufficient to meet the demands of manual issuance and replacement.

(b) **Master control of ATPs (Form FSP-930):** When shipment of blank ATP cards is received by the CWA, the date of receipt and the serial number of the first and the last ATP in the shipment shall be recorded on the top of form FSP-930. In addition, each distribution of a block of ATP cards to personnel in the Food Stamp Office shall be recorded on the FSP-930.

1. Subsequent distribution of blocks: Each subsequent distribution of blocks of ATP cards shall be entered in consecutive order, until distribution of the entire shipment has been logged.

2. Subsequent shipments: Each subsequent shipment of blank ATP cards shall be recorded on a separate control sheet. Distributions to CWA personnel shall be logged in accordance with paragraph 1 above.

(c) Storage of ATP shipments: All shipments of ATP cards shall be maintained in a secure area which must be locked appropriately. Such area shall be separate from the area in which Forms FSP-930 are kept.

(d) Subsidiary control of ATPs (Form FSP-930A): Each employee responsible for a block of ATPs shall maintain a separate log, on Form FSP-930A, of the cards assigned him/her.

1. Subsequent distributions: Each subsequent receipt of a block of ATPs shall be recorded on a separate Form FSP-930A.

2. Sequential issuance of ATPs: ATPs shall be issued in numerical sequence within each block.

3. Voided ATPs: All voided ATPs shall be maintained, numerically, in a "void" file.

(e) Storage of ATP blocks: All supplies of blank ATP cards assigned to CWA personnel shall be maintained in a secure area which may be locked in the absence of the employee. Under no circumstances shall ATPs be accessible to unauthorized persons.

(f) Control of undeliverable ATPs (Form FSP-921): The CWA shall record, on Form FSP-931, certain data from each ATP which has been returned in the mail as undeliverable. A separate Form FSP-931 shall be prepared in duplicate for each working day.

1. Return of ATP with PA checks: If an ATP is returned with an assistance check, the CWA shall route the check to its appropriate designation and record data from the ATP on Form FSP-931.

2. Distribution of Forms FSP-931: The original and duplicate of Form FSP-931 shall be routed to the Food Stamp Supervisor along with the undeliverable ATPs. Upon receipt of these documents, the supervisor shall initial the duplicate copy of Form FSP-931 in the lower left hand corner. Such copy shall then be placed on file in the CWA.

3. Completion of Form FSP-931 by the Food Stamp Supervisor: The Food Stamp Supervisor shall record the disposition of each undeliverable ATP on the original of Form FSP-931. If ATP issuance is to be rescinded, the word "cancelled" shall be entered in large letters on the face of the ATP.

i. Signature of Food Stamp Supervisor on Form FSP-931: When disposition of all listed ATPs has occurred, the supervisor shall sign the certification in the lower right hand corner of the original of Form FSP-931.

ii. Retention of cancelled ATPs: The supervisor shall retain, in numerical sequence, all undeliverable ATPs which have been voided, pending periodic audit and review by the DFD.

(g) Retention of control forms: Completed Forms FSP-930, FSP-930A, and FSP-931 shall be retained for a period of three years. Such period shall originate with the most recent date of entry on the appropriate form.

Repealed, R.1984 d.16, effective February 6, 1984.
See: 15 N.J.R. 1821(a), 16 N.J.R. 246(a).

This section formerly contained the rules entitled "Responsibilities of the new jurisdiction".

Amended by R.1989 d.121, effective February 21, 1989.
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

This section was recodified from 9.20. The original section 9.10 was reserved.

10:87-9.11 (Reserved)

Repealed, R.1984 d.17, effective February 6, 1984.
See: 15 N.J.R. 1821(a), 16 N.J.R. 246(a).

This section formerly contained the rules entitled "Rights of households in the new project area".

10:87-9.12 (Reserved)

Repealed, R.1984 d.17, effective February 6, 1984.
See: 15 N.J.R. 1821(a), 16 N.J.R. 246(a).

This section formerly contained the rules entitled "Certification during participation under form FNS-286".

10:87-9.13 (Reserved)

Repealed, R.1984 d.17, effective February 6, 1984.
See: 15 N.J.R. 1821(a), 16 N.J.R. 246(a).

This section formerly contained the rules entitled "Households which move while covered by form FNS-286".

10:87-9.14 (Reserved)

Repealed, R.1984 d.17, effective February 6, 1984.
See: 15 N.J.R. 1821(a), 16 N.J.R. 246(a).

This section formerly contained the rules entitled "Security and control of FNS-286".

SUBCHAPTER 10. FISCAL OPERATIONAL PROBLEMS

10:87-10.1 State Plan for Food Stamp Employment and Training Programs

(a) The Department of Human Services, Division of Family Development is responsible for designing and operating food stamp employment and training (E & T) programs effective April 1, 1987, which may consist of one or more of a combination of employment, training, education,

and/or job search components. For purposes of retaining eligibility for the Food Stamp Program, a work registrant shall be required to comply with the provisions of this subchapter and the requirements of the State Plan for Food Stamp Employment and Training Programs.

(b) Employment and training component defined: Employment and training component is defined as a work experience, work training or job search program designed to help food stamp recipients move promptly into unsubsidized employment.

(c) The State shall receive an employment and training program grant for each fiscal year in which the State operates an approved employment and training program. The grant is 100 percent Federally funded. The E & T grant shall require no State or county matching.

1. E & T program grants shall be used to fund the administrative costs of planning, implementing and operating employment and training programs in accordance with the approved State Plan. E & T grants shall not be used for the purpose of determining whether or not a participant shall be work registered, the work registration process, or any further screening performed during the certification process, nor for sanction activity which takes place after the operator of an E & T component has reported noncompliance without good cause. For purposes of this paragraph, the certification process shall be considered to have ended when an individual is referred to an E & T component for assessment or participation.

2. E & T grants shall not be used to subsidize the wages of participants, or to reimburse participants under the provisions of N.J.A.C. 10:87-10.9(c)5.

3. E & T funds shall not supplant State or local funds devoted to basic education programs. Education expenses are approvable to the extent that E & T component costs exceed the normal cost of services provided to persons not participating in an employment and training program.

(d) If the State fails, without good cause, to comply with Federal work requirements, including an approved State Plan and specific performance standards established for the State by the United States Department of Agriculture (USDA), Food and Nutrition Service (FNS), USDA/FNS may withhold funding for the employment and training programs. Non-receipt of an E & T grant does not release the State from performance requirements or sanctions for insufficient performance.

Amended by R.1989 d.121, effective February 21, 1989.
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

This section was originally "General provisions"; the new text was recodified from 3.13(a).

10:87-10.2 State Plan general requirements

(a) The State Plan for Food Stamp Employment and Training Programs must be approved by USDA/FNS. The State Plan shall detail the following:

1. The nature of the employment and training components the State plans to offer and reasons for such components, including cost information and an estimated operating budget;
2. The categories and types of mandatory work registrants exempted from E & T participation;
3. The characteristics of the work registrant population that the State intends to place;
4. The geographic areas covered and not covered by the plan and why, and the type and location of services to be offered;
5. The method the State will use to count all work registrants the first month of each Federal fiscal year;
6. The organizational relationship between the units responsible for certification and the units operating E & T components and between the State agency and other agencies it plans to coordinate with for the provision of services.

(b) The current State Plan for Food Stamp Employment and Training Programs is available for public inspection at the Division of Economic Assistance, 6 Quakerbridge Plaza, Trenton, New Jersey.

(c) Quarterly reporting requirements: The Division of Economic Assistance shall submit a quarterly report (FNS-583) no later than 45 days after the end of each Federal fiscal quarter containing monthly figures for the number of:

1. Participants newly work registered;
2. Work registrants exempted by the State Plan from participation in an E & T program, separated by the reason for exemption;
3. Participants who volunteer for and commence participation in an approved E & T component;
4. E & T mandatory participants, including Food Stamp Program applicants, who commence an approved E & T component; and
5. Work registrants sent a notice of adverse action for failure to comply with E & T requirements, and the number of applicants who were denied food stamp certification or recertification for failure to comply with an E & T component.

(d) Annual reporting requirements: The Division of Economic Assistance (DEA) shall submit annually, on their first quarterly report, the number of work registered persons in the State as of October in the new Federal fiscal year. DEA shall submit annually, on their final quarterly report the following information:

1. The number of Food Stamp Program work registrants who were exempted as part of a category of persons during the course of the year separated by the specific reasons for the exemptions.
2. The number of food stamp participants (E & T mandatory and volunteers) placed in each E & T component offered by the State Plan.

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

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

This section was originally "Definitions of FSP terms"; the text was repealed and the new section was recodified from 3.13(b).

Amended by R.1990 d.565, effective November 19, 1990.

See: 22 N.J.R. 2219(a), 22 N.J.R. 3486(a).

Deleted requirements that the number of persons disqualified from the Food Stamp Program for failure to comply with an employment and training (E & T) requirement or the number of E & T participants who become employed be identified on the FNS-583 Report.

10:87-10.3 Employment and training program performance standards

(a) Performance standards: USDA/FNS establishes annual performance standards for the minimum number of eligible persons that must be placed in E & T programs. Mandatory performance standards will begin with Federal fiscal year 1989.

(b) Definition of placed: A person may be considered placed in an E & T program, for purposes of performance standards, if the person commences an employment and training component, or fails to comply with E & T requirements and is denied certification or is sent a notice of adverse action for the noncompliance. Notices of adverse actions sent for noncompliance with work registration or voluntary quit provisions shall not count as placements. Persons assigned to a component who have good cause for noncompliance shall not be counted as placed.

(c) Performance formula: To determine the level of performance at the end of each fiscal year, FNS will divide the number of E & T mandatory participants plus volunteers the State has "placed" in its E & T program over the course of the year (the numerator) by the number of E & T mandatory participants who were eligible to have been placed in the program over the course of the year plus volunteers (the denominator). The denominator is herein referred to as the "base of eligibles".

(d) Counting placements in an E & T program: DFD shall count a person as placed in an E & T program, for purposes of performance standards, in accordance with the following:

1. If the person commences an employment and training component, or fails to comply with E & T requirements and is denied certification or is sent a notice of adverse action for the noncompliance, that person may be counted as placed.

- i. If an E & T mandatory participant does not comply with E & T requirements, and a notice of adverse action is sent, the person is counted as placed in the month the notice of adverse action is mailed.

- ii. Notices of adverse action sent for noncompliance with work registration or voluntary quit shall not count as placements.

- iii. Persons assigned to a component who have good cause for noncompliance shall not be counted as placed. If good cause for noncompliance is temporary (less than 60 days) the person shall be referred again to a component as soon as practicable. If the good cause represents a situation or condition which will continue for 60 days or more, the person shall be considered exempt.

2. If a participant reports to a component which involves several months, that individual would be counted as placed in the initial month only.

3. Each time a participant is placed in a different component after having completed a prior component, that individual may be counted as placed.

4. If participation in one type of E & T component is not continuous, the participant may be counted as having been placed more than once in the same component.

(e) Counting the "base of eligibles": The base of persons eligible to participate in an E & T program (the denominator) consists of all non-exempt work registrants in the month of October plus newly work-registered food stamp recipients who have not been exempted by the State Plan from participation in an E & T program. These groups are considered E & T mandatory participants. In addition, volunteers who are placed in an E & T component shall be counted in the base of eligibles. The State (DFD) need not count any individual in the base of eligibles (mandatory work registrants and volunteers) more than once in a fiscal year. Individuals who are exempt from the work registration requirement shall not be included in the base of eligibles.

(f) Accounting for short-term participants: There are a number of work registrants considered E & T mandatory participants who are counted in the base of eligibles (denominator) but who remain on the Food Stamp Program for such a short period of time that it is not possible to place them in an E & T component. These short term recipients inflate the base of eligibles. To counteract the effects of short-term participants, DFD shall decrease the base of eligibles in accordance with the approved State Plan procedures.

(g) Performance data collection: To determine the annual total in the base of eligible (denominator) DFD shall count the actual number of work registered individuals in the first month of the Federal fiscal year. Each subsequent month the DFD shall add to that figure the number of E & T mandatory participants, and volunteers who were placed in an E & T component that month. The method of measuring the number of persons "placed" (the numerator) shall be the same.

1. Separate counts shall be maintained for the mandatory participants, including applicants, and volunteers.

2. A count of persons placed each month of the fiscal year shall be added cumulatively.

3. A cumulative total shall be kept monthly for the base of eligibles and the number of persons placed, and the monthly totals shall be reported to FNS no later than 45 days after the end of each quarter.

(h) Percentage of persons to be placed: USDA/FNS shall establish an annual performance standard for the minimum number of eligible persons that must be placed in E & T programs.

(i) Variations in performance standards: USDA/FNS may adjust the performance standard for an individual state, if the state can show prospectively that the components it plans to offer, or the type of participant it plans to serve, will require a significantly higher level of effort.

1. In determining whether an adjustment of the performance standard is warranted, and the level of the adjustment, FNS will consider the number of persons who will be placed, the intensity and effectiveness of the components and the cost.

2. Only in extraordinary circumstances will USDA/FNS approve a performance standard which is lower than 40 percent of the nationwide standard.

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

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

This section was "Acronyms used in Subchapter 10"; the original text was repealed and the new section was recodified from 3.14.

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

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

In (d)4: revised text to meet Federal regulations regarding employment and training program requirements.

In (e): added "non-exempt" to work registrants.

Amended by R.1993 d.62, effective February 1, 1993.

See: 24 N.J.R. 3207(b), 25 N.J.R. 584(a).

In (e): added individuals exempt from work registration not included in base of eligibles.

10:87-10.4 Work registration

(a) Each household member who is not exempt in accordance with the provisions of N.J.A.C. 10:87-10.7 shall be registered for employment by the CWA at time of application, and at least once every 12 months after initial registration, as a condition of eligibility for participation in the Food Stamp Program.

(b) Registrants who move out of the area shall reregister at their new location.

(c) The registration form need not be completed by the member required to register.

(d) The CWA shall provide work registration forms to the applicant or the household's authorized representative for each household member required to register for employment and permit the applicant or authorized representative to complete the form. Household members are considered to have registered when a completed work registration form is submitted to the CWA.

(e) The employment and training components to which participants will be referred may be limited by the availability of administrative funds provided by USDA.

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

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

This section was originally "Forms used in fiscal operations". The original text was repealed and the new section was recodified from 3.15.

10:87-10.5 Appropriate Food Stamp Employment and Training Program Office (FSETP) defined

For the purposes of Food Stamp Program work registration and work and training requirements, the "appropriate" Food Stamp Employment and Training Program Office (FSETP) shall be defined as that FSETP or its designee having jurisdiction in the area in which a registrant resides.

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

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

This section was originally "Documents (computer printouts) used in the FSCO" and it was repealed. The new section was recodified from 3.16.

10:87-10.6 Registration procedure

(a) The CWA shall register for work each household member not exempted by the provisions of N.J.A.C. 10:87-10.7 regardless of whether or not the geographic area where the member resides is covered by an employment and/or training component. In addition, exempt food stamp participants who voluntarily elect to participate in E & T programs shall be work registered as a volunteer.

(b) Upon reaching a determination that an applicant or a household member of the applicant's household is required to register, the CWA shall explain to the applicant the pertinent work requirements, the rights and responsibilities of work registered household members, and the consequences of failure to comply.

1. The CWA shall also provide, either by mail or in person, to each work registrant in the household, a written statement of the pertinent work requirements, rights and responsibilities of work registered household members, and consequences of failure to comply. A notice shall also be provided when a previously exempt member or new household member becomes subject to a work requirement, and at time of recertification.

(c) The CWA shall permit the applicant or the household's authorized representative to complete a work registration form for each household member required to register for employment in accordance with (a) above.

(d) Household members are considered to have registered when an identifiable work registration form is submitted to the CWA.

(e) Registration shall be accomplished through the execution of a work registration form. The certification worker shall review the registration form for completeness, retain a copy in the case record, and forward the original to the appropriate FSETP office in accordance with DFD instructions. If the certification worker is aware that any registrant is exempt from the E & T requirements, including migrant or seasonal farm workers away from their usual place of residence, and following the work stream, it shall be reflected on the work registration form. The CWA shall forward work registration forms to the FSETP office not later than five days after the date of certification.

(f) Frequency of registration: Each nonexempt person shall be required to register at the time of application and at least once every 12 months thereafter. Reregistration shall be accomplished by a return of a completed work registration form to the CWA which shall retain a copy in the case record and forward the original to the FSETP in accordance with (e) above.

(g) Changes to be reported to FSETP: The CWA shall be responsible for notifying the appropriate FSETP office via an information report form of those work registrants who become exempt from the work registration requirements subsequent to registration, are no longer certified for participation in the program, or move from the area. Such notification shall be provided to the appropriate FSETP office within a reasonable time period but not to exceed 30 days from the date the change becomes known to the CWA.

(h) Determination of work registration in case of FSETP/CWA disagreement: In the event that FSETP disagrees with the CWA determination that the individual is required to register for work, FSETP may request a reconsideration of the individual's nonexempt status. The CWA must respond to the reconsideration request within 30 days and FSETP must accept the response as final.

Amended by R.1989 d.121, effective February 21, 1989.
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

This original section was "Miscellaneous fiscal operational instructions" which was repealed. The new section was recodified from 3.17. Amended by R.1993 d.62, effective February 1, 1993.
See: 24 N.J.R. 3207(b), 25 N.J.R. 584(a).

In (h): deleted deregistration if CWA fails to respond within 30 days.

10:87-10.7 Exemptions from the work registration requirement

(a) Exemptions to the work registration requirement shall be determined when the household applies or reapplies for

benefits, when there is a change in the employment status of any member of the household, and/or when the 12 month registration period is initiated or renewed. The applicant shall cooperate fully with regard to the establishment of his or her exemption from the work registration requirement. If an applicant fails to cooperate in the determination of his or her exempt status, the county welfare agency shall require the applicant to complete a work registration form.

(b) The following persons shall be exempt from the work registration requirement:

1. Persons under 16 and over 60: Program participants or applicants who are under 16 years of age or aged 60 years or over shall be exempt. If a child has its 16th birthday within a certification period, the child shall fulfill the work registration requirement as part of the next scheduled recertification process, unless the child qualifies for another exemption. A person age 16 or 17 who is not the head of household and who is attending school, or enrolled in an employment training program on at least a half-time basis, is exempt.

2. Essential persons: The following shall be exempt from work registration as essential persons:

i. Responsible for care of child under six or incapacitated person: One parent or other household member who has responsibility for the care of a dependent child under six years of age, or who cares for an incapacitated person, shall be exempt. If the child has its sixth birthday within a certification period, the individual responsible for the care of the child shall fulfill the work requirement as part of the next scheduled redetermination process, unless the individual qualifies for another exemption.

3. Students: Persons enrolled at least half-time (as defined by the institution or programs in which they are enrolled) in any school or training program or institution of higher education which is recognized by any Federal, State, or local government agency shall be exempt.

i. Semester breaks and vacations: Once a student enrolls in an institution of higher education, such enrollment shall be deemed to continue through normal periods of class attendance, vacation and recess unless the student graduates, is suspended or expelled, drops out, or does not intend to register for the next normal school term, excluding summer school.

ii. Correspondence courses: Persons enrolled in correspondence courses, where physical attendance is not regularly required, shall not be considered students for the purposes of (b)3 above.

4. Incapacitated adults: Adults who are physically or mentally unfit for employment shall be exempt. If a mental or physical disability is claimed and the disability is not evident, verification shall be required.

i. Evidence of incapacity: The following shall be considered evidence of incapacity:

(1) Certain SSI benefits: Current eligibility for SSI benefits for the blind or disabled, with the exception of "essential persons" (as defined by SSA);

(2) Disability benefits: Current receipt of temporary or permanent disability benefits issued by governmental or private sources;

(3) Medical verification: A statement from a physician or licensed or certified psychologist which substantiates the applicant's claim of disability; (the certification worker may obtain such medical verification in writing or by telephone);

(4) Report by the medical review team (MRT): In the case of applicants who are receiving public assistance, a report by the MRT substantiating the applicant's claim of disability.

ii. Documentation of incapacity: The certification worker shall document all facts relevant to, and verification methods utilized, in the determination of incapacity.

5. Employed persons: Persons who are employed or self-employed at least 30 hours per week or receiving weekly earnings equal to the Federal minimum wage multiplied by 30 hours shall be exempt. This shall include migrant and seasonal farm workers who are under contract or similar written agreement with an employer or crew chief to begin employment within 30 days, although this shall not prevent individuals from seeking additional services from FSETP.

i. Non-gainful employment: Persons engaged in hobbies or volunteer work or any other activity which cannot, because of the minimal amount of monies received from such activity, be considered gainful employment, shall not be exempt from work registration, regardless of the amount of time spent in such activity.

6. Certain addicts and alcoholics: A narcotics addict or alcoholic who regularly participates, as a resident or nonresident, in a drug or alcoholic treatment and rehabilitation program, which has been certified as such by the New Jersey Department of Health, shall be exempt.

i. Verification of program participation: Prior to certification, the regular participation of an addict or alcoholic in such a program shall be verified with the appropriate organization or center.

ii. Verification of center certification: An approved center shall be in possession of a letter from the New Jersey Department of Health, verifying certification by that agency.

7. Persons subject to registration under other programs: Persons registered for work in accordance with program requirements of General Assistance are exempt, provided that they are participating in a General Assistance work or training activity. AFDC recipients who are subject to and complying with any REACH work or training requirement shall be exempt.

i. Recipients of GA are exempt from the food stamp work registration requirement while they are participating in any work or training activity mandated by GA regulations. GA recipients who are not participating in a GA work or training activity shall be subject to food stamp work registration, including FSETP participation, unless they are exempt from work registration under other exemptions in this subsection.

ii. Recipients of non-Federally funded AFDC benefits who are subject to and complying with REACH requirements are exempt from the food stamp work registration requirement.

iii. Recipients who are exempted from the food stamp work registration requirement either due to participation in a GA work activity, or receipt of non-Federally-funded AFDC benefits, shall be disqualified from the Food Stamp Program if they fail to comply with a comparable REACH or GA work or training requirement. Prior to terminating the recipient or household, the CWA shall verify that the individual failed to comply with a GA or REACH requirement which is the equivalent of the food stamp work requirements provided at N.J.A.C. 10:87-10.9 and 10.17 through 10.19. The disqualification procedures are outlined at N.J.A.C. 10:87-10.20.

iv. If the recipient failed to comply with a GA or REACH activity that is not comparable to a food stamp work or training requirement, then the household or individual shall not be disqualified. The individual, however, shall then be required to comply with food stamp work registration. An individual or household shall not be disqualified if the noncomplying member meets one of the other exemption criteria in this section.

8. Recipients of unemployment compensation: Persons in receipt of unemployment compensation and persons who have applied for, but have not yet begun receiving unemployment compensation shall be exempt.

i. Failure to comply: Persons failing to comply with an unemployment compensation requirement comparable to a food stamp work registration or employment and training requirement shall be treated as though they had failed to comply with the corresponding food stamp requirement. If the CWA determines that the unemployment compensation requirement is comparable, the individual, or household (if the individual who committed the violation is head of household) shall be disqualified in accordance with the provisions of N.J.A.C. 10:87-10.21. The CWA shall provide a notice of adverse action within 10 days after learning of the noncompliance with the unemployment compensation requirement.

ii. An individual or household shall not be disqualified if the noncomplying member meets one of the exemption criteria at N.J.A.C. 10:87-10.7 other than the exemptions at (b)8 (exemption due to receipt of UIB) or (b)10 below (exemption due to compliance with a Title IV (AFDC) work or training requirement).

iii. Household members who fail to comply with a noncomparable unemployment compensation requirement shall lose their exemption under this section and must register for work if otherwise required to register in accordance with (a) above.

9. Jointly processed households: Household members who are entitled to joint processing shall be exempt from work registration until they are determined eligible for SSI and therefore exempt from work registration in accordance with N.J.A.C. 10:87-(b)4 above. If ineligible for SSI and where applicable, a determination of such an individual's work registration status will then be made through recertification procedures.

10. Title IV (AFDC) work registrant: A household member subject to and complying with any work or training requirement under Title IV (AFDC) of the Social Security Act, including WIN or REACH registration and participation, shall be exempt.

i. Failure to comply: Persons failing to comply with a Title IV requirement comparable to a food stamp work registration or employment and training requirement shall be treated as though they had failed to comply with the corresponding food stamp requirement. If the CWA determines that the Title IV requirement is comparable, the individual, or household (if the individual who committed the violation is head of household) shall be disqualified in accordance with the provisions of N.J.A.C. 10:87-10.21. The CWA shall provide a notice of adverse action within 10 days after learning of the noncompliance with the Title IV requirement.

ii. An individual or household shall not be disqualified if the noncomplying member meets one of the exemption criteria at N.J.A.C. 10:87-10.7 other than the exemptions at (b)8 above (exemption due to receipt of UIB) or (b)10 (exemption due to compliance with a Title IV (AFDC) work or training requirement).

iii. Household members who fail to comply with a noncomparable Title IV requirement shall lose their exemption under this section and must register for work if otherwise required to register in accordance with (a) above.

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

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

The original section was "document library" and was repealed. The new section was recodified from 3.18 (a)-(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)7: clarified exemption for General Assistance and REACH work or training participants.

In (7): Deleted i. and ii. and added new text at 7 i-iv., clarifying GA and REACH recipients' exemption from food stamp work registration requirement.

10:87-10.8 Persons losing exempt status

(a) Persons losing exempt status due to any change in circumstances that is subject to the reporting requirements of N.J.A.C. 10:87-9.5(a) (such as loss of employment that also results in a loss of income of more than \$25.00 a month, or departure from the household of the sole dependent child for whom an otherwise nonexempt household member was caring) shall register for employment when the change is reported according to the following procedures:

1. The CWA shall be responsible for providing the participant with the work registration form when the change is reported.

2. Participants shall be responsible for returning the work registration form to the CWA within 10 calendar days from the date the work registration form was handed to the household member reporting the change in person, or the date the CWA mailed the work registration form.

3. If the household fails to return the work registration form, the CWA shall issue a notice of adverse action stating that the participant, or if the individual is head of household, the household is being terminated and why, but that the termination can be avoided by returning the work registration form.

(b) Persons who lose their exempt status due to a change in circumstances that is not subject to the reporting requirements of N.J.A.C. 10:87-9.5(a) shall register for employment at the time of the household's next recertification.

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

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

The original section was "program code description" and was repealed. The new section was recodified from 3.18 (c).

10:87-10.9 Work registrant requirements

(a) If a person is not exempt from employment and training requirements, the FSETP worker shall be responsible for screening (assessing) that person and, if appropriate, referring him or her to an employment and training component within 10 days of the initial assessment. Upon entry into each component, the registrant participant or volunteer shall be told, either orally or in writing, the requirements of the component, what will constitute noncompliance and the sanctions for noncompliance. The CWA food stamp office shall take appropriate sanction action within 10 working days after learning of noncompliance.

1. Assessment defined: Assessment is defined as an in-depth evaluation of employability skills coupled with counseling on how and where to search for employment. If combined with work experience, employment search or training, an assessment of this nature could constitute part of an employment and training component.

(b) Work registrants shall:

1. Report, at the direction of the Food Stamp Employment and Training Program Office (FSETP), to an assessment interview and/or to an employment and training program component under the approved State Plan for Food Stamp Employment and Training Programs;

2. Participate in an employment and training program activity, if assigned;

3. Respond to a request from the FSETP or its designee for supplemental information regarding employment status or availability for work;

4. Report to an employer to whom referred by the FSETP or designee if the potential employment meets the suitability requirements described in N.J.A.C. 10:87-10.15.

5. Accept a bona fide offer of suitable employment at a wage not less than the higher of either the applicable State or Federal minimum wage.

(c) Employment and training programs are as follows:

1. Persons required to register for work and not exempted by the State Plan for Employment and Training Programs from placement in a component shall be subject to the employment and training requirements imposed by the State Plan for that individual. Such individuals are referred to as E & T mandatory participants.

2. Employment and training programs may include, but are not limited to, approved:

i. Job search activity (see N.J.A.C. 10:87-10.17 and 18);

ii. Training activity (see N.J.A.C. 10:87-10.19);

iii. Employment activity; or

iv. On-the-job training when approved under JTPA;

v. Other activity that will lead to gainful employment.

3. Failure to comply without good cause with the employment and training requirements shall result in disqualification of the individual, or in the case of non-compliance of the head of household, the entire household shall be disqualified in accordance with the provisions of N.J.A.C. 10:87-10.20.

4. Time spent in an employment and training program: The number of months a participant spends in an employment and training component shall be determined by the FSETP. The FSETP shall also determine the number of successive components in which a participant may be placed.

i. The minimum level of effort of any work or training component shall provide that compliance by the work registrant shall entail an average of 12 hours of activity per month per participant for two months (or less in a work experience component if the household's benefit divided by the minimum wage is less than this amount).

ii. The time spent by the members of a household collectively each month in an employment and training program work experience component shall not exceed the number of hours equal to the household's allotment for that month divided by the higher of the applicable State or Federal minimum wage.

iii. The total hours of participation in an E & T component for any household member individually in any month, together with any hours worked for compensation in cash or in kind, shall not exceed 120.

5. Participants in an employment and training program, including volunteers, shall receive a participant allowance provided through the CWA for costs of transportation, or other costs that are reasonably necessary and directly related to participation in the employment and training programs at the flat rate of \$25.00 per month for all participants. Dependent care expenses shall not be reimbursed through the \$25.00 allowance, but shall be reimbursed in accordance with (c)6 below.

6. CWAs shall reimburse ETP participants up to \$160.00 per month per dependent for dependent care expenses incurred while fulfilling a food stamp ETP obligation. The \$160.00 reimbursement is in addition to the transportation allowance described in (c)5 above. A recipient shall be deferred from ETP participation if the household's average dependent care expenses would exceed the \$160.00 reimbursement if the recipient is assigned to an ETP activity. Deferment shall continue until either a suitable ETP component is available, or the household's dependent care circumstances change so that monthly dependent care expenses no longer exceed the \$160.00 reimbursement amount. Households receiving AFDC benefits are not entitled to the \$160.00 dependent care reimbursement.

7. Voluntary participation: Individuals may elect to voluntarily participate in available work and training programs.

i. The FSETP office shall permit, to the extent practicable, persons exempt from work registration or employment and training requirements, or those not exempt who have complied or are complying with the requirements, to participate in any employment and training program offered.

ii. Voluntary participants in an employment and training component shall not be disqualified for failure to comply with work and training requirements.

iii. The hours of participation or work of a volunteer may not exceed the hours required of E & T mandatory participants as specified in (c)4 above.

Amended by R.1989 d.121, effective February 21, 1989.
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

This section was recodified from 3.19 (a)-(c).
Amended by R.1991 d.247, effective May 6, 1991.
See: 23 N.J.R. 179(a), 23 N.J.R. 1412(b).

In (c)5: added text regarding dependent care expenses.
Deleted (c)5i, regarding the claiming as expenses of child care costs.
Added new (c)6 recodifying existing (c)6 as 7 with no change in text.

10:87-10.10 Voluntary quit

(a) No household whose head of household, as defined in N.J.A.C. 10:87-2.6, voluntarily quits his or her job without good cause shall be eligible for participation in the Food Stamp Program except as provided in (c) below. Changes in employment status that result from reducing hours of employment while working for the same employer, terminating a self-employment enterprise or resigning from a job at the demand of the employer shall not be considered as a voluntary quit. If an individual quits a job, secures new employment at comparable wages or hours, and is then laid off or, through no fault of his or her own, loses the new job, the earlier quit shall not be the basis of a disqualification. An employee of the Federal government, or of a State or local government who participates in a strike against such government, and is dismissed from his or her job because of participation in the strike shall be considered to have voluntarily quit his or her job without good cause (see N.J.A.C. 10:87-10.16 concerning strikers). The CWA shall explain to the household at the time of application not only the potential consequences of the head of household quitting a job without good cause, but also the consequences of an individual subsequently joining the household as its head after that individual voluntarily quit employment.

(b) Determining whether a voluntary quit occurred: When a household files an application for participation, or when a participating household reports the loss of a source of income, the CWA shall determine if any currently unemployed (that is, employed less than 20 hours per week or receiving less than weekly earnings equivalent to the Federal minimum wage multiplied by 20 hours) household member who is required to register for full-time work or who is exempt under N.J.A.C. 10:87-10.7(b)5 has voluntarily quit his or her job (that is, employment involving 20 hours or more per week or having received weekly earnings equivalent to the Federal minimum wage multiplied by 20 hours) without good cause. For applicant households, the CWA shall determine if a voluntary quit occurred within the last 60 days. If the CWA learns that a household has lost a source of income after the date of application but before the household is certified, the CWA shall determine whether a voluntary quit occurred. For participating households, the CWA shall determine whether any household member voluntarily quit his or her job while participating in the program. Benefits shall not be delayed beyond the application

processing standards described at N.J.A.C. 10:87-2.30 and 2.32 pending the outcome of the determination.

1. Head of household: If a determination of voluntary quit is established, the CWA shall then determine if the member who quit is the head of household in accordance with N.J.A.C. 10:87-2.6.

(c) CWA Action: The CWA shall take the appropriate action, as outlined in (c)1 through 5 below, upon a determination that the head of household voluntarily quit employment.

1. Denial of application: Upon a determination that the head of household voluntarily quit employment, the CWA shall determine if the voluntary quit was with good cause as defined in N.J.A.C. 10:87-10.11. If the voluntary quit was not for good cause, the household's application for participation shall be denied for a period of 90 days beginning with the date of quit. The household shall be advised of the reason for the denial, the proposed period of disqualification, and of its rights to reapply at the end of the 90-day period, the circumstances under which a voluntary quit disqualification may be ended, and of its right to request a fair hearing.

2. Disqualification of participating households: If the CWA determines that the head of a participating household voluntarily quit his or her job while participating in the program, or discovers a quit which occurred within 60 days prior to application or between application and certification, the CWA shall provide the household with a notice of adverse action within 10 days of the date the determination of voluntary quit was made. The notice shall specify the period of the disqualification, the particular act of noncompliance committed, the circumstances under which a voluntary quit disqualification may be ended or avoided, the household's right to a fair hearing and that the household may reapply at the end of the disqualification period. The household shall be disqualified for three months beginning with the first day of the month after normal adverse action procedures have been taken. If the household leaves the program before the sanction can be levied, the sanction shall not be imposed until the household returns to the program. If an individual who voluntarily quit joins a new household and is not the household head, the sanction shall be terminated.

i. Fair hearings: Each household has a right to a fair hearing to appeal a termination or denial of benefits due to a determination that the household's head of household voluntarily quit his or her job without good cause. If the participating household requests a fair hearing and the CWA determination is upheld, the disqualification period shall begin the first of the month after the hearing decision is rendered.

3. Application in third month of disqualification period: If an application for participation in the Food Stamp Program is filed in the third month of disqualification, the CWA shall (in accordance with N.J.A.C. 10:87-6.4 and

6.5) use the same application for the denial of benefits in the remaining month of disqualification and certification for any subsequent months if all other eligibility criteria are met.

4. If a household is certified when a quit which occurred prior to certification is discovered, the household shall be regarded as a participating household and shall have the three month disqualification imposed.

5. If a voluntary quit either occurs or is discovered in the last month of the certification period, the household shall be denied recertification for 90 days, commencing with the first day of the month after the certification period expires. If the household does not reapply, the CWA shall establish a claim against the household for those benefits received by the household for up to 90 days subsequent to the last day of the month of the quit. If benefits were received for fewer than 90 days subsequent to the last day of the month of the quit, a claim shall be established for all benefits received during that 90-day period, and a period of ineligibility shall be assigned to the household for the number of days in that 90-day period for which a claim was not established, with the end result that a claim was established or the household was ineligible for a full 90-day period.

(d) Exemptions from voluntary quit provisions: Persons exempt from the work registration provisions as stated in N.J.A.C. 10:87-10.7 are exempt from the voluntary quit provisions, with the exception of an individual who was employed 30 or more hours per week and then quit that employment (see N.J.A.C. 10:87-10.7(b)5).

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

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

This section was recodified with amendments from 3.19(d)1.-3.

Amended by R.1990 d.565, effective November 19, 1990.

See: 22 N.J.R. 2219(a), 22 N.J.R. 3486(a).

Deleted all reference to quitting the "most recent" job, thus aligning New Jersey's Food Stamp Program with Federal regulations at 7 CFR 273.7.

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

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

In (b): added N.J.A.C reference and procedures regarding benefits.

Added clarifying text in subsection (c).

10:87-10.11 Good cause

(a) Good cause for leaving employment includes the good cause provisions found in N.J.A.C. 10:87-10.23 and resigning from a job that does not meet the suitability criteria specified in N.J.A.C. 10:87-10.15. Good cause for leaving employment shall also include:

(b) Discrimination: Discrimination by an employer based on age, race, sex, color, handicap, religious beliefs, national origin, or political beliefs;

(c) Working conditions: Work demands or conditions that render continued employment unreasonable, such as working without being paid on schedule;

(d) Employment or education: Acceptance by the primary wage earner of employment or enrollment of at least half-time in any recognized school, training program or institution of higher education, that requires the primary wage earner to leave employment;

(e) Employment or education of other household member: Acceptance by any other household member of employment or enrollment of at least half-time in any recognized school, training program or institution of higher education in another county which requires the household to move and thereby requires the primary wage earner to leave employment;

(f) Retirement: A resignation which is recognized by the employer as retirement;

(g) Employment becomes unsuitable: Employment which becomes unsuitable (see N.J.A.C. 10:87-10.15) after acceptance of such employment;

(h) Employment does not materialize: Acceptance of a bona fide offer of employment more than 20 hours a week or in which the weekly earnings are equivalent to the Federal minimum wage multiplied by 20 hours which, because of circumstances beyond the control of the primary wage earner, subsequently does not materialize or results in employment of less than 20 hours a week or weekly earnings of less than the Federal minimum wage multiplied by 20 hours; and

(i) Patterns of employment: Leaving a job in connection with patterns of employment in which workers frequently move from one employer to another such as migrant farm labor or construction work. There may be some circumstances where households will apply for food stamp benefits between jobs, particularly in cases where work may not yet be available at the new job site. Even though employment at the new site has not actually begun, the quitting of the previous employment shall be considered to be with good cause if such movement from employer to employer is part of the pattern of that type of employment;

(j) Lack of adequate child care: Lack of adequate care of children who have reached age six but are under age 12.

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

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

This section was recodified from 3.19(d)4.

10:87-10.12 Verification of voluntary quit and good cause

(a) To the extent that the information given by the household is questionable as defined in N.J.A.C. 10:87-2.21, the CWA shall request verification of the household's statements.

(b) Primary responsibility: The primary responsibility for providing verification rests with the household.

(c) CWA assistance: If it is difficult or impossible for the household to obtain documentary evidence in a timely manner, the CWA shall offer assistance to obtain the needed verification.

(d) Acceptable sources: Acceptable sources of verification include but are not limited to the previous employer, employee associations, union representatives and grievance committees or organizations.

(e) Collateral contact: Whenever documentary evidence cannot be obtained from the household member, the CWA shall substitute a collateral contact. The CWA is responsible for obtaining verification from acceptable collateral contacts provided by the household.

(f) Unable to verify: If the household and the CWA are unable to obtain requested verification from the above or other sources because the cause for the quit resulted from circumstances which for good reason cannot be verified, such as a resignation from employment due to discriminatory practices, unreasonable demands by an employer, or because the employer cannot be located, the household shall not be denied access to the Food Stamp Program.

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

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

This section was recodified from 3.19 (d)5.

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

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

In (a): revised N.J.A.C. reference.

10:87-10.13 Rules on ending a voluntary quit disqualification

(a) Following the end of the voluntary quit disqualification period a household may begin participation in the program if it applies again and is determined eligible.

(b) Eligibility may be reestablished during a voluntary quit disqualification period and the household shall, if otherwise eligible, be permitted to resume participation if the member who caused the disqualification secures comparable employment. The new employment need not be identical to the previous employment in terms of salary or hours; it may entail fewer hours or a lower net salary than the previous employment.

(c) Eligibility may also be reestablished during a voluntary quit disqualification if the violator becomes exempt from work registration requirements in accordance with N.J.A.C. 10:87-10.7(b), other than the exemptions at N.J.A.C. 10:87-10.7(b)8 (exemption due to receipt of UIB) and 10.7(b)10 (exemption due to Title IV (AFDC) work or training participation requirements). The sanction shall also be removed if an eligible individual joins the household and qualifies to be the household's principal wage earner as defined at N.J.A.C. 10:87-2.6(b).

(d) Persons who have been disqualified for quitting a job as head of household of one household shall carry their

sanction with them if they join a new household as its head. The new household will be ineligible for the remainder of the sanction period unless the person who caused the disqualification ends it in accordance with this section.

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

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

This section was recodified from 3.19 (d)6.

10:87-10.14 (Reserved)

10:87-10.15 Unsuitable employment

(a) Employment offered to a registrant shall not be considered suitable when any of the following conditions exist:

1. Earnings: The wages offered are less than the highest of: the applicable Federal minimum wage, the applicable State minimum wage, or, if neither the State nor Federal minimum wage is applicable, 80 percent of the Federal minimum wage. If the employment offered is on a piece-rate basis, and the average hourly yield the employee can reasonably be expected to earn is less than the applicable hourly wages specified above.

2. The registrant, as a condition of employment, is required to join, resign from, or refrain from joining, any legitimate labor organization.

3. The work offered is at a site subject to a strike or a lockout at the time of the offer unless the strike has been enjoined under Section 208 of the Labor-Management Relations Act (Taft-Hartley) or unless an injunction has been issued under Section 10 of the Railway Labor Act.

4. The registrant lacks adequate child care for children who have reached age 6 but are under age 12.

(b) Registrant proof of unsuitability: Any employment offered a registrant shall be considered suitable unless he or she can demonstrate or the CWA becomes aware that:

1. The degree of risk to health and safety is unreasonable;

2. He or she is physically or mentally unfit to perform the employment, as established by documentary medical evidence or reliable information obtained from other sources; or

3. The employment offered within the first 30 days of registration is not in his or her major field of experience;

4. The distance of the employment from his or her residence is unreasonable considering the expected wage and the time and cost of commuting. Employment shall not be considered suitable if daily commuting time exceeds 2 hours per day, not including the transportation of a child to and from a child care facility. Nor shall employment be considered suitable if the distance to the place of employment prohibits walking and neither public nor private transportation is available to transport the member to the job site;

5. The working hours or nature of the employment interferes with the individual's religious observances, convictions or beliefs; or

6. For students, the employment is offered during class hours or is more than 20 hours per week.

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

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

This section was recodified from 3.19 (e).

10:87-10.16 Strikers

(a) Households with striking member(s) shall be ineligible to participate in the Food Stamp Program unless the household was (or would have been) eligible for benefits the day prior to the strike and is otherwise eligible at the time of application. Pre-strike eligibility shall be determined by considering the day prior to the strike as the day of application and assuming the strike did not occur. Such households shall retain their eligibility but shall not receive an increased allotment as a result of a decrease in the income of the striking member(s) of the household.

(b) The CWA shall determine eligibility by comparing the striking member's income before the strike to the striker's current income and adding the higher of the two figures to the current income of non-striking members during the month of application.

(c) To determine benefits (and eligibility for those households subject to the net income eligibility standard) deductions shall be calculated for the month of application as for any other household. Whether the striker's pre-strike earnings or current income is used, the earnings deduction shall be allowed, if appropriate.

(d) If other changes occur, such as but not limited to, a change in household size or non-strike related employment, the CWA shall take appropriate action and adjust the benefit level.

(e) Strikers shall be subject to work registration criteria.

(f) Striker defined: For the purpose of the Food Stamp Program the term "striker" shall be defined as anyone involved in a strike or concerted stoppage of work by employees (including a stoppage by reason of the expiration of a collective bargaining agreement) and any concerted slowdown or other concerted interruption of operations by employees. Additionally, any individual exempt from the work registration requirement, other than those exempt solely on the grounds that they are employed, shall not be deemed to be a striker. Examples of non-strikers who are eligible to participate in the program include, but are not limited to:

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

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

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

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

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

This section was originally 3.19 (f).

Cross References

See N.J.A.C. 10:89-2.2, Home Energy Assistance program eligibility requirements.

10:87-10.17 Job search components

(a) Persons required to register for work shall also be subject to an independent job search or other appropriate employment and training (E & T) activity.

(b) Job search assignment: During the initial assessment interview, the FSETP worker shall determine the job search requirements of each work registrant and shall provide each registrant with written notification regarding his or her job search requirements, procedures to be followed and the consequences of failure to comply. Based on the capabilities and characteristics of the registrant, the FSETP worker shall determine the extent of appropriate E & T activity for each work registrant.

1. Job Ready: Those registrants that have no apparent substantial barriers to employment shall be considered job ready.

2. Non-Job Ready: Persons on temporary layoff or expecting to return to work within 60 days, shall be considered non-job ready for 60 days from the date of initial registration. At the end of the 60 day period, such persons shall be contacted to redetermine appropriateness for participation in job search.

(c) Exempt:

1. The FSETP determination of exempt status shall be made at the time the work registration form is received from the CWA to preclude the need of such registrants to travel to the FSETP office for an interview, unless it is impossible for the FSETP office to determine exempt status from the information on the work registration form.

2. Those work registrants for whom a job search is determined to be impractical, specifically including registrants residing an unreasonable distance from the E & T location or considered to be unsuitable for participation in any efforts toward employment due to a permanent condition of unemployability shall be considered exempt. Such exemption shall be subject to reevaluation at the time of the individual's next recertification.

i. A distance shall be considered unreasonable if the round trip exceeds two hours by reasonably available public or private transportation.

3. Migrant and seasonal farmworkers away from their usual place of residence and following the work stream shall also be considered exempt.

4. Those registrants with substantial barriers to employment such as, but not limited to, medical or social problems documented in writing, language or other serious problems, that alone or in conjunction with adverse labor market conditions would make them difficult to place shall be considered exempt. Such exemption shall be subject to reevaluation at the time of the individual's next recertification.

(d) Job search requirements: Persons determined to be job ready or persons losing exempt status or reentering the program after a period of absence shall be subject to and must comply with a job search for a minimum of eight weeks each 12 months. The FSETP office may require that the eight week period be one continuous period, or that it be divided into two separate job search periods which total eight weeks.

1. Job Contact: Registrants shall contact, as required by FSETP, up to a minimum of 24 prospective employers during the eight week period. If the job search period is shortened, the number of required job contacts shall be reduced on a pro rata basis, to the maximum extent practicable.

i. A referral to an employer shall be considered a job contact provided the registrant presents himself or herself to the employer as available for employment.

ii. To be considered a job contact initiated by the registrant, the registrant must present himself or herself to the employer as available for work and the employer must ordinarily employ persons in areas of work that the registrant is reasonably qualified for by means of experience, training or ability and is not considered unsuitable employment in accordance with N.J.A.C. 10:87-10.15.

iii. Depending upon the position being sought, the job contact requirements may be fulfilled by either a personal visit to the prospective employer or another method of application which is considered by the FSETP office to be generally accepted practice.

iv. The work registrant cannot contact the same employer in subsequent weeks unless the initial contact indicated that vacancies in suitable job positions may soon exist.

2. Reporting job contacts to the FSETP office.

i. Twice during the eight week job search period the work registrant shall report at a prescheduled time to the FSETP worker, the result of all job search contacts. If the eight week job search activity is divided into two

separate periods, the FSETP worker may require the registrant to report once during each period of job search activity.

ii. Job contacts shall be reported in writing in a manner prescribed by FSETP. At the time of the initial interview with the FSETP worker, the work registrant shall be informed about the manner of reporting. While such reporting will not require the employer's written confirmation of the job contact, the registrant shall be required to sign written documentation to attest to its validity. The written report shall be submitted to the FSETP worker at the work registrant's follow-up interview. The registrant shall be responsible for providing FSETP, upon reasonable request, any additional information regarding job contacts.

(e) FSETP review of job contacts: The FSETP worker shall determine if the work registrant has completed the assigned number of job contacts.

1. If the registrant was assigned a continuous job search period of less than eight weeks, the registrant shall have two additional weeks to complete any missed contacts.

2. If the registrant was assigned a single continuous eight week job search period, no additional time shall be allowed unless the FSETP worker fails to accept, for reasons such as suitability or manner of contact, a job contact(s) reported by the registrant. In such instances, the work registrant shall be allowed an additional two weeks to make up the disallowed contact(s).

3. Persons failing to complete the required number of job contacts, with good cause, shall be excused from completion of the job search requirements.

4. If a registrant believes that a FSETP determination is improper, review of the determination may be obtained from a designated FSETP official not involved in the original determination. For example, if the registrant believes he or she has been improperly assigned to a job search category or assigned an improper number of job search contacts, or that an action which should have been counted as a contact was not, a review may be obtained. This also applies to an FSETP determination that non-compliance was not for good cause.

(f) FSETP case records: A complete file on each work registrant shall be maintained by the FSETP office.

Amended by R.1989 d.121, effective February 21, 1989.
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

This section was originally 3.19(g).

10:87-10.18 Job search training component

(a) Job search training: Job search training consists of two segments, classroom group job search training techniques and motivation, followed by a period of supervised job club or job search.

(b) The duration of the classroom training segment may vary dependent upon the approved program component available in a particular county.

1. The curriculum in the group training segment will include confidence-building, self-evaluation, goal assessment and training in job search skills. Participants will be taught to locate potential employers and to develop an individual job search profile.

2. Participants will be expected to attend all classroom sessions. Failure to adhere to attendance and participation requirements without good cause may result in disqualification from the Food Stamp Program for failure to comply.

(c) During the job search training component, participants will be required to undertake a supervised job search similar to independent job search, or participate in a supervised job club.

1. Job club participants may be required to report daily to a specific location (site) to make telephone contacts to obtain job interviews.

2. Participants will be expected to attend all assigned site sessions. Failure to adhere to attendance and participation requirements without good cause may result in disqualification from the Food Stamp Program for failure to comply.

Amended by R.1989 d.121, effective February 21, 1989.
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

This section was originally 3.19(h).

Amended by R.1993 d.62, effective February 1, 1993.
See: 24 N.J.R. 3207(b), 25 N.J.R. 584(a).

In (c), stylistic revisions.

10:87-10.19 Vocational/educational training component

(a) After initial screening and assessment by the FSETP worker, an individualized plan will be developed with the participant. Work registrants who have complied with other job search and/or job search training requirements may be referred on a voluntary basis for educational development, skill training or vocational training through the Job Training Partnership Act (JTPA) Program in any of the 21 counties.

(b) Vocational training may be offered through classroom training arranged by JTPA, and designed to train workers in occupations for which demand exceeds supply.

(c) Participants enrolled half time or more in an institution of higher education will continue to be eligible for Food Stamps if they:

1. Are employed 20 hours per week or the equivalent thereof;
2. Participate in a federally financed work study program;
3. Are responsible for the care of a dependent under the age of six, or 12 if no child care is available;

4. Are receiving AFDC benefits; or

5. Are assigned to an institution of higher learning through a program authorized/approved under the Job Training Partnership Act (JTPA).

(d) Unless a client is exempt from student ineligibility provisions based on the criteria in (c) above, he or she may only be referred to higher educational components that are less than half time. Action taken other than that specified in this section could render the participant ineligible for the Food Stamp Program.

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

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

This section was originally 3.19(i).

10:87-10.20 Failure to comply

(a) If the registrant fails to comply with any of the work registration or work and training requirement provisions in this subchapter, without good cause, the appropriate FSETP office shall notify the CWA in writing within five working days of the date such information becomes known to the FSETP, citing specific facts and circumstances, by means of an information report form.

(b) CWA responsibilities: Within 10 days after the FSETP provides notification of failure to comply, the CWA shall provide the individual, or if the individual is head of household, the household with notice of adverse action and begin the disqualification period in accordance with the provisions of N.J.A.C. 10:87-10.21.

1. Fair hearing: Each individual or household has a right to a fair hearing to appeal a denial, reduction, or termination of benefits due to a determination of non-exempt status or a CWA/FSETP determination of failure to comply with the work registration and/or work and training requirements of this subchapter (see N.J.A.C. 10:87-10.22).

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

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

This section was originally 3.20(a)-(b).

10:87-10.21 Penalty for noncompliance with employment and training requirements

(a) If the CWA determines that an individual other than the head of household, as defined in N.J.A.C. 10:87-2.6, has refused or failed to comply with the requirements imposed by this subchapter and the State Plan for Employment and Training, that individual shall be ineligible to participate in the Food Stamp Program for two months and is treated as an ineligible household member in accordance with N.J.A.C. 10:87-7.14. If the head of household fails to comply, the entire household is ineligible to participate. The CWA shall take appropriate action as follows:

(b) The period of ineligibility shall continue in both cases either until the member who caused the violation complies with the requirement as specified in N.J.A.C. 10:87-10.24, leaves the household, becomes exempt from work registration through the provisions of N.J.A.C. 10:87-10.7 other than the exemptions at N.J.A.C. 10:87-10.7(b) (exemption due to receipt of UIB) or N.J.A.C. 10:87-10.7(b)10 (exemption due to compliance with a Title IV (AFDC) work or training requirement), or for two months, whichever occurs earlier.

(c) Change in household composition: Should a household which has been determined to be noncompliant without good cause split into more than one household, the sanction shall follow the member who caused the disqualification. If a head of household who committed the violation joins another food stamp household as head of the household, that household shall be ineligible for the remainder of the disqualification period. If the member who failed to comply joins another household where he or she is not head of household, the individual shall be considered an ineligible household member in accordance with N.J.A.C. 10:87-7.14. A household determined to be ineligible due to failure to comply with work registration requirements may reestablish eligibility if a new and eligible person qualifies to be the household's head.

(d) The CWA shall determine whether good cause for noncompliance exists in accordance with N.J.A.C. 10:87-10.23.

(e) The CWA shall provide the individual or household with a notice of adverse action within 10 days of determining that the noncompliance was without good cause. Such notification shall contain the particular act of noncompliance committed, the proposed period of disqualification and shall specify that the individual or household may reapply at the end of the disqualification period. Information shall also be included with the notice on the action which can be taken to end or avoid the sanction and procedures and requirements for reestablishment of eligibility.

(f) The disqualification period shall begin with the first month following the expiration of the adverse action notice period, unless a fair hearing is requested.

Amended by R.1989 d.121, effective February 21, 1989.
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

This section was originally 3.20(c)-(e)5.
Amended by R.1991 d.247, effective May 6, 1991.
See: 23 N.J.R. 179(a), 23 N.J.R. 1412(b).

In (c): revised N.J.A.C. citation and added final sentence to text regarding a household determined to be ineligible due to failure to comply with work registration requirements.

10:87-10.22 Fair hearings

(a) Each individual or household has a right to a fair hearing to appeal a denial, reduction, or termination of benefits due to a determination of nonexempt status, or a determination of failure to comply with the work registra-

tion or work and training requirements of this subchapter. A fair hearing shall be scheduled in accordance with N.J.A.C. 10:87-8.6(a)4.

(b) Individuals or households may appeal CWA or FSETP actions such as exemption status, the type of requirement imposed, or CWA or FSETP refusal to make a finding of good cause, if the individual or household believes that a finding of failure to comply has resulted from improper decision on these matters.

(c) The CWA/FSETP agency or its designee operating the relevant component shall receive sufficient advance notice to either permit the attendance of a representative or ensure that a representative will be available for questioning over the phone during the hearing. A representative of the appropriate agency shall be available through one of these means.

(d) A household shall be allowed to examine its employment and training component case file at a reasonable time before the hearing, except for confidential information (which may include test results) that the agency determines should be protected from release. Information not released to a household may not be used by either party at the hearing.

(e) The results of the fair hearing shall be binding on the CWA and the FSETP.

Amended by R.1989 d.121, effective February 21, 1989.
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

This section was originally 3.20(c)6.

10:87-10.23 Good cause for noncompliance

(a) The CWA shall be responsible for determining good cause in those instances where the work registrant fails to comply with the work registration, work and training requirements or voluntary quit requirements of this subchapter. The CWA shall take into consideration all of the facts and circumstances which existed at the time of the registrant's alleged failure to comply including information submitted by the employer and the household member involved. Good cause shall include circumstances beyond the control of the registrant.

1. If the good cause for noncompliance is temporary (less than 60 days) the person shall be referred again to a component as soon as practicable.

2. If the good cause represents a situation or condition which will continue for 60 days or more, the person shall be considered exempt.

3. If the good cause for noncompliance no longer exists, the person shall be referred to a component as soon as practicable.

(b) Good cause circumstances: Good cause for noncompliance shall include circumstances such as, but not limited to, the illness of the registrant or another household mem-

ber, unavailability of transportation, an unanticipated emergency, and/or the lack of adequate care for children who have reached age six but are under age 12. Problems caused by inability of the registrant to speak or write English may constitute good cause. For example, a registrant who cannot read English would have good cause for not appearing for an FSETP interview if the appointment notice was written only in English.

1. **Illness of another household member:** In the case of a registrant's failure to comply due to the illness of another household member, such illness shall be sufficiently serious as to require the presence of the registrant.

Amended by R.1989 d.121, effective February 21, 1989.
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).
This section was originally 3.20(d)-(e).

10:87-10.24 Ending disqualification

(a) Following the end of the two month disqualification period for noncompliance with the work registration or employment and training requirements and, upon reapplication participation may resume if a disqualified individual or household applies again and is determined eligible.

1. **New two month period:** If the two month period should elapse, upon reapplication, the household member again refuses to comply with the work registration and/or work and training requirements, the member is subject to disqualification pursuant to provisions of this subchapter.

(b) Eligibility may be reestablished during a disqualification period and the household shall, if otherwise eligible, be permitted to resume participation if the member who caused the disqualification becomes exempt from the work requirement, is no longer a member of the household, or the member complies as follows:

1. **Refusal to register:** Registration by the household member who refused to register;

2. **Refusal to respond to request for additional information:** Compliance with the request from the CWA, or the FSETP office or its designee, to provide supplemental information regarding employment status or availability for work;

3. **Refusal to report to an employer:** Reporting to that employer to whom referred by the FSETP office or its designee if work is still available or to another employer to whom referred.

4. **Refusal to accept suitable employment:** Acceptance of a bona fide offer of suitable employment to which referred by the FSETP office or its designee, if still available to the participant, or securing other employment which yields earnings per week equivalent to the refused job, or securing employment of at least 30 hours per week or securing employment of less than 30 hours per week but with weekly earnings equal to the Federal minimum wage multiplied by 30 hours.

5. **Refusal to comply with a CWA/FSETP (or its designee) employment and training component assignment or requirement:** Compliance with the CWA/FSETP (or its designee) employment and training component assignment or requirement or an alternate CWA/FSETP (or its designee) assignment or requirement.

Amended by R.1989 d.121, effective February 21, 1989.
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

This section was originally 3.21.
Amended by R.1991 d.247, effective May 6, 1991.
See: 23 N.J.R. 179(a), 23 N.J.R. 1412(b).

In (b)4: added phrase "... or securing employment of less than 30 hours per week but ..."

SUBCHAPTER 11. INCORRECT ISSUANCE

10:87-11.1 Intentional program violation disqualification

(a) Individuals found to have committed intentional program violation either through an administrative disqualification hearing or by a court of appropriate jurisdiction or who have signed either a waiver of right to an administrative disqualification hearing or a disqualification consent agreement in cases referred for prosecution, shall be ineligible to participate in the program for six months for the first violation, 12 months for the second violation and permanent for the third violation.

(b) One or more intentional program violation disqualifications which occurred prior to April 1, 1983 shall be counted as one disqualification in determining the appropriate penalty.

1. If the act of intentional program violation occurred prior to notification of the disqualification penalties specified in this section, the individual shall be disqualified in accordance with the disqualification period in effect at the time of the offense.

(c) If a court fails to impose a disqualification period for an intentional program violation, the CWA shall impose the appropriate disqualification penalty unless it is contrary to the court order.

(d) The CWA shall disqualify the individual determined to have committed intentional program violation or who signed a waiver of right to an administrative disqualification hearing or a disqualification consent agreement and not the entire household.

Amended by R.1989 d.121, effective February 21, 1989.
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).
Recodified (a)1.-3. as (b)-(d).

Case Notes

Notice of appeal or cross-appeal is deemed complaint and tolls running of statute of limitations when aggrieved party in state administrative proceeding elects not to file complaint in state court alleging federal civil rights claims but raises such claims in notice of appeal or cross-appeal from the decision of the agency. *Maisonet v. New Jersey Dept. of Human Services, Div. of Family Development*, 140 N.J. 214, 657 A.2d 1209 (1995).

The state and counties are obligated to investigate apparent instances of fraud committed by either employees or recipients of the Food Stamp Program, make demand for the repayment of food stamp coupons issued as a result of fraud or misrepresentation, make an administration determination as to whether the facts warrant referral of the matter to state or federal authorities for prosecution, and refer the matter to such authorities if appropriate. Atty.Gen.F.O.1978, No. 2.

Recipients who illegally receive benefits under the Food Stamp Program are subject to both federal and state criminal sanctions. Atty.Gen.F.O.1978, No. 2.

10:87-11.2 Imposing disqualification periods

(a) If the individual is not eligible at the time the disqualification period is to begin, the period shall be postponed until the individual applies for and is determined eligible for benefits. However, once a disqualification period is imposed, the period of disqualification shall continue uninterrupted regardless of the eligibility of the individual.

(b) For individuals who sign a waiver of the right to an administrative disqualification hearing, the disqualification period shall begin with the first month which follows the date the household member received written notification of the disqualification.

(c) For individuals who sign a disqualification consent agreement, the disqualification period shall begin within 45 days of the date the individual signed the agreement.

(d) For individuals found guilty of intentional program violation by an administrative disqualification hearing, the disqualification period shall begin with the first month following the date the household member receives written notification of the hearing decision.

(e) For individuals found guilty of intentional program violation by a court of appropriate jurisdiction, the disqualification period shall begin within 45 days of the date the disqualification was ordered or if no disqualification period is specified by the court within 45 days of the date the court found the individual guilty of civil or criminal misrepresentation or fraud.

(f) Notification of disqualification: Whenever a household member is disqualified for intentional program violation, the CWA shall provide written notice of the disqualification, in advance of the disqualification if possible. The notice shall inform the household member of the disqualification and when it will take effect. The CWA shall also provide written notice to the remaining household members of the allotment they will receive during the period of disqualification.

Amended by R.1989 d.121, effective February 21, 1989.
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

Recodified from N.J.A.C. 10:87-11.1(a)4.-5. to 11.2(a)-(f).

Case Notes

County has no discretion in seeking recovery of overpayments of public assistance funds or overissuance of food coupons. Childs v.

Essex County Div. of Welfare, 236 N.J.Super. 127, 564 A.2d 889 (L.1988).

AFDC recipient who had worked without reporting earnings was not entitled to have portion of income disregarded. Childs v. Essex County Div. of Welfare, 236 N.J.Super. 127, 564 A.2d 889 (L.1988).

Recipients who illegally receive benefits under the Food Stamp Program are subject to both federal and state criminal sanctions. Atty.Gen.F.O.1978, No. 2.

10:87-11.3 Waiver of right to administrative disqualification hearing

(a) The accused individual shall have the option of waiving his or her right to an administrative disqualification hearing. The CWA shall provide written notification of this option to the client only after ensuring that the evidence against the client has been reviewed by someone other than the eligibility worker assigned to that case and that such evidence warrants the scheduling of a disqualification hearing. The written notification which informs the individual of the option of waiving his or her right to a disqualification hearing shall include:

(b) The date that the signed waiver must be received by the CWA to avoid the holding of a hearing and a signature block for the accused individual, along with the statement that the head of household must also sign the waiver if the accused individual is not the head of household, with an appropriately designated signature block;

(c) A statement of the accused individual's right to remain silent concerning the charge(s), and that anything said or signed by the individual concerning the charge(s) can be used against him or her in a court of law;

(d) The fact that a waiver of the disqualification hearing will result in disqualification and a reduction in benefits for the period of disqualification, even if the accused individual does not admit to the facts as presented by the CWA;

(e) An opportunity for the accused individual to specify whether or not he or she admits to the facts as presented by the CWA;

(f) The telephone number and, if possible, the name of the person to contact for additional information; and

(g) The fact that the remaining household members, if any, will be held responsible for repayment of the resulting claim.

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

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

Recodified from N.J.A.C. 10:87-11.1(b).

10:87-11.4 Disqualification consent agreement

(a) Disqualification consent agreement: Individuals accused of intentional program violation which are referred to a court of appropriate jurisdiction but for which no determination of guilt is obtained due to the accused individual having met the terms of a court order or which were not

prosecuted due to the accused individual having met the terms of an agreement with the prosecutor, shall be allowed to sign a disqualification consent agreement. The CWA shall make arrangements with the county prosecutors to provide advance written notification to the household member of the consequences of consenting to disqualification as a result of deferred adjudication and to include the disqualification consent agreement in agreements between the prosecutors and the accused individuals or in the court orders.

(b) The advance notice and agreement shall include, at a minimum:

1. A statement for the accused individual to sign that the accused individual understands the consequences of consenting to disqualification, along with a statement that the head of household must also sign the consent agreement if the accused individual is not the head of household, with an appropriately designated signature block;

2. A statement that consenting to disqualification will result in disqualification and a reduction in benefits for the period of disqualification, even though the accused individual was not found guilty of civil or criminal misrepresentation or fraud;

3. A warning that the disqualification penalties for intentional program violation under the Food Stamp Program which could be imposed are a six-month disqualification for the first violation, 12-month disqualification for the second violation, and permanent disqualification for the third violation, and a statement of which penalty will be imposed as a result of the accused individual having consented to disqualification;

4. A statement of the fact that the remaining household members, if any, will be held responsible for repayment of the resulting claim, unless the accused individual has already repaid the claim as a result of meeting the terms of the agreement with the prosecutor or the court order.

(c) If the individual signs the disqualification consent agreement, he or she shall be disqualified in accordance with this section unless contrary to the court order. The period of disqualification shall begin within 45 days of the date the household member signed the consent agreement. If the court specifies a disqualification period or specifies a date for initiating disqualification, the CWA shall adhere to the court order.

As amended, R.1983 d.224, effective May 31, 1983.
See: 15 N.J.R. 633(a), 15 N.J.R. 1034(a).

Originally adopted as an Emergency Rule, R.1983 d.117, effective March 31, 1983, operative April 1, 1983. The amendments are 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).

Text concerning fraud deleted; replaced by greatly expanded text covering intentional program violation and mandatory disqualifications. Amended by R.1989 d.121, effective February 21, 1989.

See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).
Recodified from N.J.A.C. 10:87-11.1(c).

10:87-11.5 Definition of intentional program violation

(a) For purposes of determining whether or not a person has committed an intentional program violation, intentional program violations shall consist of having intentionally:

1. Made a false misleading statement, or misrepresented, concealed or withheld facts; or
2. Committed any act that constitutes a violation of the Food Stamp Act, the Food Stamp Program regulations, or any State statute relating to the use, presentation, transfer, acquisition, receipt or possession of food stamp coupons or ATPs.

As amended, R.1983 d.224, effective May 31, 1983.

See: 15 N.J.R. 633(a), 15 N.J.R. 1034(a).

Originally adopted as an Emergency Rule, R.1983 d.117, effective March 31, 1983, operative April 1, 1983. The amendments are 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). Section formerly definition of fraud deleted in entirety.

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

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

Recodified from 11.2.

10:87-11.6 Administrative disqualification

(a) A referral for an administrative disqualification hearing or referral to a court of appropriate jurisdiction shall be initiated by the CWA whenever the CWA has sufficient documentary evidence to substantiate that an individual has intentionally made one or more acts of intentional program violation as defined in N.J.A.C. 10:87-11.5 regardless of the current eligibility of the individual.

1. Referral for an administrative disqualification hearing shall be made:

- i. When the facts of the case do not warrant prosecution through the court system;
- ii. When a case previously referred for prosecution is declined by the appropriate legal authority;
- iii. When no action has been taken in a reasonable length of time on a case which has been referred for prosecution and the referral has been formally withdrawn.

(b) A referral for an administrative disqualification hearing shall not be made against an individual whose case is currently being referred for prosecution or subsequent to any action taken against the accused individual by a court of appropriate jurisdiction.

As amended, R.1983 d.224, eff. May 31, 1983.

See: 15 N.J.R. 633(a), 15 N.J.R. 1034(a).

Originally adopted as an Emergency Rule, R.1983 d.117, eff. March 31, 1983, operative April 1, 1983. The amendments are 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).

Entire text concerning fraud deleted and replaced.

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

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

Section recodified from 11.3. Cross reference changed from 11.2 to 11.5. The original section was reserved. The annotations to that section follow:

Repealed, R.1983 d.224, eff. May 31, 1983.

See: 15 N.J.R. 633(a), 15 N.J.R. 1034(a).

Originally adopted as an Emergency Rule, R.1983 d.117, eff. March 31, 1983, operative April 1, 1983. The amendments are 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).

Originally contained rules concerning criteria for determining fraud.

10:87-11.7 Administrative disqualification hearing procedures

(a) Administrative disqualification hearings will be conducted pursuant to the Special Rules for Division of Family Development cases, N.J.A.C. 1:10, and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(b) Hearings will be scheduled by the Office of Administrative Law (OAL) and will be conducted by an administrative law judge assigned by the Director of OAL.

(c) Final decisions: The final decisions shall be made by the Director of DFD based on the hearing record and shall comply with Federal law and regulations.

(d) Hearing record: An official report containing the substance of what transpired at the hearing, together with all papers and requests filed in the proceeding, shall constitute the exclusive record for a final decision by the Director of the DFD.

(e) The hearing record shall be retained for a period of three years. This record shall be available to the household or its representative at any reasonable time for copying or inspection.

(f) Advance notice of hearing: The CWA shall provide written notice to the household member suspected of intentional program violation at least 30 days in advance of the date an administrative disqualification hearing has been scheduled. The notice shall be mailed by certified mail—Return Receipt Requested.

1. The advance notice shall contain at a minimum:
 - i. The date, time, and place of the hearing;
 - ii. The charge(s) against the household member;
 - iii. A summary of the evidence, and how and where the evidence can be examined;
 - iv. A warning that the decision will be based solely on information provided by the food stamp office if the household member fails to appear at the hearing;
 - v. A statement that the household member or representative will have 10 days from the date of the scheduled hearing to present good cause for failure to appear in order to receive a new hearing;
 - vi. A warning that a determination of intentional program violation will result in a six-month disqualifica-

tion for the first violation, 12-month disqualification for the second violation, and permanent disqualification for the third violation, and a statement of which penalty the CWA believes is applicable to the case scheduled for a hearing;

vii. A listing of the household member's rights to:

- (1) Examine documents and records under the requirements of N.J.A.C. 10:87-8.15(a)1;
- (2) Present the case or have it presented by a legal counsel or other person;
- (3) Bring witnesses;
- (4) Advance arguments without undue interference;
- (5) Question or refute any testimony or evidence, including an opportunity to confront and cross-examine adverse witnesses;
- (6) Submit evidence to establish pertinent facts and circumstances in the case.

viii. A statement that the hearing does not preclude the State or Federal Government from prosecuting the household member for intentional program violation in a civil or criminal court action, or from collecting the overissuances; and

ix. If there is an individual or organization available that provides free legal representation, the notice shall advise the household member of the availability of the service.

2. The advance notice shall inform the household of its right to obtain a copy of the State agency's published hearing procedures upon request.

As amended, R.1983 d.224, effective May 31, 1983.

See: 15 N.J.R. 633(a), 15 N.J.R. 1034(a).

Originally adopted as an Emergency Rule, R.1983 d.117, effective March 31, 1983, operative April 1, 1983. The amendments are 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).

References to fraud deleted; references to hearing officers deleted and replaced by references to Office of Administrative Law procedures. Amended by R.1989 d.121, effective February 21, 1989.

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

Recodified from 11.4 with amendments to (j), (k) and (m).

Amended by R.1994 d.42, effective January 18, 1994.

See: 25 N.J.R. 4697(b), 26 N.J.R. 377(a).

10:87-11.8 Participation while awaiting a hearing

(a) A pending administrative disqualification hearing shall not affect the individual's or the household's right to be certified and participate in the program. Since the CWA cannot disqualify a household member for intentional program violation until the hearing decision finds that the individual has committed intentional program violation, the CWA shall determine the eligibility and benefit and benefit level of the household in the same manner it would be determined for any other household.

Example: If the action for which the household member is suspected of intentional program violation does not affect the household's current circumstances, the household would continue to receive its allotment based on the latest certification action or be recertified based on a new application and its current circumstances.

(b) Expiration of certification period: The household's benefits shall be terminated if the certification period has expired and the household, after receiving its notice of expiration, fails to reapply.

(c) Evidence of ineligibility or eligibility for fewer benefits: The CWA shall reduce or terminate the household's benefits if the CWA has documentation which substantiates that the household is ineligible or eligible for fewer benefits and the household fails to request a fair hearing and continuation of benefits pending the hearing. This provision applies even if the same evidence led to the suspicion of intentional program violation and the resulting disqualification hearing. For example, the CWA may have facts which substantiate that a household failed to report a change in its circumstances even though the CWA has not yet demonstrated that the failure to report involved an act of intentional program violation.

As amended, R.1983 d.224, effective May 31, 1983.
See: 15 N.J.R. 633(a), 15 N.J.R. 1034(a).

Originally adopted as an Emergency Rule, R.1983 d.117, effective March 31, 1983, operative April 1, 1983. The amendments are 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).

References to "fraud" deleted and replaced by "intentional program violation".

Amended by R.1989 d.121, effective February 21, 1989.
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

Recodified from 11.4.

10:87-11.9 (Reserved)

As amended, R.1983 d.224, effective May 31, 1983.
See: 15 N.J.R. 633(a), 15 N.J.R. 1034(a).

Originally adopted as an Emergency Rule, R.1983 d.117, effective March 31, 1983, operative April 1, 1983. The amendments are pursuant to the Food Stamp Act Amendments of 1982 (P.L. 97-253) and Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35).

"Director of the CWA" replaced by "administrative law judge".

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

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

Recodified from 11.7.

Repealed by R.1994 d.42, effective January 18, 1994.

See: 25 N.J.R. 4697(b), 26 N.J.R. 377(a).

Section was "Decision format".

10:87-11.10 No further administrative appeal

(a) No further administrative appeal procedure exists after the signing of a waiver of the right to a disqualification hearing or an adverse disqualification hearing decision. The disqualification penalty cannot be reversed by a subsequent fair hearing decision. The household member, however, is entitled to seek relief in a court having appropriate jurisdiction. The period of disqualification may be subject to stay by a court of appropriate jurisdiction or other injunctive remedy.

As amended, R.1983 d.224, effective May 31, 1983.

See: 15 N.J.R. 633(a), 15 N.J.R. 1034(a).

Originally adopted as an Emergency Rule, R.1983 d.117, effective March 31, 1983, operative April 1, 1983. The amendments are 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).

Rules concerning appeals after CWA hearings deleted and replaced. Amended by R.1989 d.121, effective February 21, 1989.

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

Recodified from 11.8.

10:87-11.11 Court imposed disqualifications

(a) Referral for prosecution: CWAs are encouraged to refer for prosecution under State statutes those individuals suspected of committing intentional program violation, particularly if large amounts of food stamps are suspected of being obtained by acts of intentional program violation or if the individual is suspected of committing more than one act of intentional program violation.

(b) Conference with legal representative: The CWA shall confer with its legal representative to determine the types of cases which will be accepted for possible prosecution.

(c) Recommendations of penalty: The CWA shall also encourage prosecutors to recommend to the courts that a disqualification penalty as provided in section 6(b) of the Food Stamp Act be imposed in addition to any other civil or criminal penalties for such violations.

1. If the court does not impose a disqualification period, the CWA shall impose the appropriate disqualification period unless contrary to the court order.

As amended, R.1983 d.224, effective May 31, 1983.

See: 15 N.J.R. 633(a), 15 N.J.R. 1034(a).

Originally adopted as an Emergency Rule, R.1983 d.117, effective March 31, 1983, operative April 1, 1983. The amendments are 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).

References to "fraud" deleted and replaced with "intentional program violation"; in absence of court order, CWA to impose disqualification.

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

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

Recodified and substantially amended from 11.9.

10:87-11.12 Reversed intentional program violation disqualifications

(a) In cases where the determination of guilty of intentional program violation is reversed by a court of appropriate jurisdiction, the CWA shall reinstate the individual in the program if the household is eligible.

(b) Restoration of lost benefits: The CWA shall restore any benefits that were lost as a result of the disqualification in accordance with the procedures specified in N.J.A.C. 10:87-11.13 through 11.21.

As amended, R.1983 d.224, effective May 31, 1983.

See: 15 N.J.R. 633(a), 15 N.J.R. 1034(a).

(b) Calculating restoration due: For each month the individual was disqualified, the amount to be restored, if any, shall be determined by comparing the allotment the household received with the allotment the household would have received had the disqualified member been allowed to participate. If the household received a smaller allotment than it should have received, the difference equals the amount to be restored. Benefits shall not be restored for a period of more than 12 months prior to CWA notification. Participation in an administrative disqualification hearing in which the household contests the CWA assertion of intentional program violation shall be considered notification that the household is requesting that benefits be restored.

As amended, R.1983 d.224, effective May 31, 1983.
See: 15 N.J.R. 633(a), 15 N.J.R. 1034(a).

Originally adopted as an Emergency Rule, R.1983 d.117, effective March 31, 1983, operative April 1, 1983. The amendments are 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).

"Fraud" replaced by "intentional program violation"; restriction or restoration added as lead-in.

As amended, R.1984 d.68, effective March 19, 1984.

See: 15 N.J.R. 2134(b), 16 N.J.R. 550(a).

Restrictions of not more than 12 months of restoration and disqualification.

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

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

Recodified from 11.16.

10:87-11.19 Method of restoration

(a) Regardless of whether a household is currently eligible or ineligible, the CWA shall restore lost benefits to a household by issuing an allotment equal to the amount of benefits that were lost. The amount restored shall be issued in addition to the allotment currently eligible households are entitled to receive.

(b) Household requests monthly installments: The CWA shall honor reasonable requests by households to restore lost benefits in monthly installments if, for example, the household fears the excess coupons may be lost or stolen, or that the amount to be restored is more than it can use in a reasonable period of time.

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

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

Recodified from 11.17.

10:87-11.20 Change in household composition

Whenever lost benefits are due a household and the household's membership has changed, the CWA shall restore the lost benefits to the household containing a majority of the individuals who were household members at the time the loss occurred. If the CWA cannot locate or determine the household which contains a majority of the household members the CWA shall restore the lost benefits to the household containing the individual who was head of the household (see N.J.A.C. 10:87-2.6) at the time the error occurred.

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

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

Recodified from 11.18.

10:87-11.21 Benefits lost prior to EPR

A loss of benefits may have occurred prior to elimination of the food stamp purchase requirement (EPR). Households assigned a purchase requirement that was too high or assigned an incorrect household size shall be entitled to restoration of lost benefits if the household received fewer bonus stamps as a result. The amount to be restored is equal to the difference between the bonus stamps the household received and the correct amount the household should have received. The CWA shall restore the lost benefits in accordance with the procedures outlined in this section.

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

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

Recodified from 11.19.

10:87-11.22 Federally mandated reduction or cancellation of benefits

Households whose allotments are reduced or cancelled as a result of a federal mandate are not entitled to a restoration of lost benefits unless DPW, upon notification by USDA, specifically authorizes such restoration.

As amended, R.1981 d.64, effective February 26, 1981.

See: 13 N.J.R. 226(b).

As amended, R.1983 d.224, effective May 31, 1983.

See: 15 N.J.R. 633(a), 15 N.J.R. 1034(a).

Originally adopted as an Emergency Rule, R.1983 d.117, effective March 31, 1983, operative April 1, 1983.

The N.J.A.C. cite was recodified from 10:87-20A to 10:87-20, the text remained the same.

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

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

Recodified from 11.20.

10:87-11.23 Claims against households

All adult household members shall be jointly and severally liable for the value of any overissuance of benefits to the household. The CWA shall establish a claim against any household that has received more food stamp benefits than it is entitled to receive, or any household which contains an adult member who was an adult member of another household that received more food stamp benefits than it was entitled to receive. During the certification of each food stamp household, the CWA shall identify whether the household was previously overissued food stamp benefits. If an outstanding claim balance is identified, the CWA shall take appropriate action to recover the overissued benefits, pursuant to N.J.A.C. 10:87-11.26 and 11.29.

Amended by R.1983 d.224, effective May 31, 1983.

See: 15 N.J.R. 633(a), 15 N.J.R. 1034(a).

Originally adopted as an Emergency Rule, R.1983 d.117, effective March 31, 1983, operative April 1, 1983.

Rule at 10:87-21, concerning claim determinations was deleted.

Amended by R.1988 d.173, effective April 18, 1988.

See: 20 N.J.R. 162(c), 20 N.J.R. 903(c).

Substantially amended.

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

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

Recodified from 11.21.

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

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

Added text regarding certification of each food stamp household.

10:87-11.24 Inadvertent household error and administrative error claims

Inadvertent household error claims and administrative error claims are those claims established against households for overissuances which were not caused by intentional program violation but are caused by an error on the part of the CWA or a misunderstanding or inadvertent error on the part of the household.

As amended, R.1983 d.224, effective May 31, 1983.

See: 15 N.J.R. 633(a), 15 N.J.R. 1034(a).

Originally adopted as an Emergency Rule, R.1983 d.117, effective March 31, 1983, operative April 1, 1983. The amendments are 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).

Rules on nonfraud claims deleted and replaced.

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

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

Recodified from 11.22.

10:87-11.25 Instances requiring a claim determination for inadvertent household errors or administrative errors

(a) Instances of inadvertent household errors which may result in a claim include, but are not limited to, the following:

1. The household unintentionally failed to provide the CWA with correct or complete information;
2. The household unintentionally failed to report to the CWA changes in its household circumstances; or
3. The household unintentionally received benefits or more benefits than it was entitled to receive pending a fair hearing decision because the household requested a continuation of benefits based on the mistaken belief that it was entitled to such benefits.

(b) Instances of administrative errors which may result in a claim include, but are not limited to, the following:

1. The CWA failed to take prompt action on a change reported by the household;
2. The CWA incorrectly computed the household's income or deductions, or otherwise assigned an incorrect allotment;

3. The CWA incorrectly issued duplicate ATPs to a household which were subsequently transacted;

4. The CWA continued to provide food stamp allotments to a household after its certification period had expired without benefit of a reapplication determination; or

5. The CWA failed to provide a household a reduced level of food stamp benefits because its public assistance grant changed.

(c) Neither an administrative error claim nor an inadvertent household error claim shall be established if an overissuance occurred as a result of the following:

1. The CWA failed to insure that a household fulfilled the following procedural requirements:

- i. Signed the application form;
- ii. Completed a current work registration form; or
- iii. Was certified in the correct county.

2. The household transacted an expired ATP, unless the household altered its ATP.

(d) Criteria for establishing an inadvertent household error or administrative claim: If less than six years have elapsed between the month an inadvertent household error or administrative error overissuance occurred and the month the CWA discovered a specific case involving an overissuance, the CWA shall take action to establish a claim against the household that received the overissuance.

(e) Calculating amount of the inadvertent household error or administrative error claim: After excluding those months that are more than six years prior to the date the overissuance was discovered, the CWA shall determine the correct amount of food stamp benefits the household should have received for those months the household participated while the overissuance was in effect. If the household received a larger allotment than it was entitled to receive, the CWA shall establish a claim against the household equal to the difference between the allotment the household received and the allotment the household should have received.

1. If the household failed to report a change in circumstances within the required time frames, the first month affected by the household's failure to report shall be the first month in which the change would have been effective had it been reported timely. However, in no event shall the CWA determine as the first month in which the change would have been effective any month later than two months from the month in which the change in household circumstances occurred.

2. If the household reported a change timely, but the CWA did not act on the change within the required time frames, the first month affected by the CWA's failure to act shall be the first month the CWA would have made the change effective had it acted timely. However, in no event shall the CWA determine as the first month in which the change would have been effective, any month later than two months from the month in which the change in household circumstances occurred. If a notice of adverse action was required but was not provided, the CWA shall assume for the purpose of calculating the claim that the maximum advance notice period would have expired without the household requesting a fair hearing.

(f) Claim offset by benefits not yet restored: After calculating the amount of the inadvertent household error or administrative error claim, the CWA shall offset the amount of the claim by any amounts which have not yet been restored to the household in accordance with N.J.A.C. 10:87-11.13. The CWA shall then initiate collection action for the remaining balance, if any.

As amended, R.1983 d.224, effective May 31, 1983.

See: 15 N.J.R. 633(a) 15 N.J.R. 1034(a).

Originally adopted as an Emergency Rule, R.1983 d.117, effective March 31, 1983, operative April 1, 1983. The amendments are 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).

Complete new text, rule at this cite recodified to 10:87-11.24.

As amended, R.1984 d.68, effective March 19, 1984.

See: 15 N.J.R. 2134(b), 16 N.J.R. 550(a).

(e)1. and 2., added.

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

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

Recodified from 11.24 and (f) amended.

10:87-11.26 Collecting inadvertent household errors and administrative error claims

(a) The CWA shall initiate collection action unless one of the following conditions apply:

1. Claim offset by unrestored benefits: The claim is fully offset by any amounts not yet restored to the household.

2. Claim less than \$35.00: The total amount of the claim is less than \$35.00 and the claim cannot be recovered by reducing the household's allotment.

i. The CWA shall initiate collection action for other claims under \$35.00 at such time that multiple overissuances for a household total \$35.00 or more.

3. Unable to locate household: The CWA has documentation which shows that the household cannot be located.

(b) Demand letters: The CWA shall initiate collection action by sending the household a written demand letter informing the household of the amount owed, the reason for the claim, the period of time the claim covers, any offsetting that was done to reduce the claim, how the household may repay the claim and the household's right to a fair hearing if they have not already had a fair hearing on the amount of the claim. If free legal representation is available, the letter shall also advise the household of the availability of the service. The household shall also be advised of its right to request a renegotiation of any repayment schedule to which the household has agreed should the household's economic circumstances change. The demand letter shall provide space for the household to indicate the method of repayment and a signature block.

1. For inadvertent household error claims, the household shall also be advised of the length of time the household has to decide which method of repayment it will choose and inform the CWA of its decision and of the fact that the household's allotment will be reduced if the household fails to make restitution.

2. For administrative error claims, the household shall also be informed of the availability of allotment reduction as a method of repayment if the household prefers to use this method.

(c) The following procedures are to be followed when a household fails to respond to a demand letter:

1. When a household fails to respond to a written demand letter for repayment of an inadvertent household error claim within 10 days, the CWA shall reduce the household's monthly coupon allotment (see N.J.A.C. 10:87-11.31(d)).

2. If a nonparticipating household or a participating household against which a claim for an administrative error has been made fails to respond to a written demand letter, the CWA shall send additional demand letters at 30 day intervals until the household pays or agrees to pay the claim or until criteria for suspending the claim have been met.

(d) Criteria for suspending collection of inadvertent household error or administrative error claim: A claim shall be suspended if no collection action was initiated because of conditions specified in (a) above. If collection action was initiated, and at least one demand letter has been sent, further collection actions shall be suspended when:

1. Unable to locate household: The household cannot be located; or

2. Cost of collection: The cost of further collection action is likely to exceed the amount that can be recovered.

(e) Terminating collecting of an inadvertent household error or administrative error claim: A claim shall be determined uncollectible after it is held in suspense for three years. A CWA may use an uncollectible claim to offset benefits in accordance with N.J.A.C. 10:87-11.17(d).

(f) Postponing collecting of an inadvertent household error claim: CWA may postpone collection action on inadvertent household error claims in cases where an overissuance is being referred for possible prosecution or for an administrative disqualification hearing and the CWA determines that collection action will prejudice the case.

As amended, R.1980 d.117, effective March 19, 1980.
See: 11 N.J.R. 517(a), 12 N.J.R. 194(b).

Added (f).

As amended, R.1983 d.224, effective May 31, 1983.
See: 15 N.J.R. 633(a), 15 N.J.R. 1034(a).

Originally adopted as an Emergency Rule, R.1983 d.117, effective March 31, 1983, operative April 1, 1983. The amendments are 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).

Text formerly at 10:87-11.23; amendments to text concerning inadvertent household and administrative errors.

Amended by R.1989 d.121, effective February 21, 1989.
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

Recodified from 11.24 with amendments.

Amended by R.1993 d.62, effective February 1, 1993.

See: 24 N.J.R. 3207(b), 25 N.J.R. 584(a).

In (c)1: failure to respond reduced from 30 to 10 days.

10:87-11.27 Intentional program violation claims

A claim shall be handled as an intentional program violation claim only if an administrative disqualification hearing or a court of appropriate jurisdiction has found a household member guilty of intentional program violation as defined in N.J.A.C. 10:87-11.5 or if the individual signs a waiver of rights to an administrative disqualification hearing or a disqualification consent agreement. Prior to the determination of intentional program violation, the claim against the household shall be handled as an inadvertent household error or administrative error claim, in accordance with N.J.A.C. 10:87-11.25 and 11.26.

Amended by R.1983 d.224, effective May 31, 1983.
See: 15 N.J.R. 633(a), 15 N.J.R. 1034(a).

Originally adopted as an Emergency Rule, R.1983 d.117, effective March 31, 1983, operative April 1, 1983. The amendments are 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).

Text formerly codified at 10:87-11.24, "fraud" replaced by "intentional program violation".

Amended by R.1989 d.121, effective February 21, 1989.
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

Recodified with amendments from 11.25.

10:87-11.28 Establishing an intentional program violation claim

(a) For each month that a household received an overissuance due to an act of intentional program violation, the CWA shall determine the correct amount of food stamp benefits, if any, the household was entitled to receive. The amount of the intentional program violation claim shall be calculated back to the month the act of intentional program violation occurred, regardless of the length of time that elapsed until the determination of intentional program violation was made. However, the CWA shall not include in its calculation any amount of overissuance which occurred in a **month more than six years** from the date the overissuance was discovered.

(b) Failure to report a change: If the household member is determined to have committed intentional program violation by intentionally failing to report a change in its household's circumstances, the first month affected by the household's failure to report shall be the first month in which the change would have been effective had it been reported. However, in no event shall the CWA determine as the first month in which the change would have been effective any month later than two months from the month in which the change in household circumstances occurred.

(c) If the household received a larger allotment than it was entitled to receive, the CWA shall establish a claim against the household equal to the difference between the allotment the household received and the allotment the household should have received.

(d) When determining the amount of benefits the household should have received, the CWA shall not apply the 20 percent earned income deduction to that portion of earned income which the household intentionally failed to report.

(e) Offset against unrestored benefits: Once the amount of the intentional program violation claim is established, the CWA shall offset the claim against any amount of lost benefits that have not yet been restored to the household in accordance with N.J.A.C. 10:87-11.13.

Amended by R.1983 d.224, effective May 31, 1983.
See: 15 N.J.R. 633(a), 15 N.J.R. 1034(a).

Originally adopted as an Emergency Rule, R.1983 d.117, effective March 31, 1983, operative April 1, 1983. The amendments are 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).

Text formerly codified at 10:87-11.25, "fraud" replaced by "intentional program violation".

Amended by R.1989 d.121, effective February 21, 1989.
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

Recodified from 11.26 and substantially amended.

10:87-11.29 Collecting intentional program violation claims

(a) If the household member is found to have committed intentional program violation at either an administrative disqualification hearing or a court of appropriate jurisdiction, or has signed a waiver of right to an administrative disqualification hearing or a disqualification consent agreement, the CWA shall initiate collection action unless the household has repaid the overissuance as a result of inadvertent client error or administrative error demand letters or the CWA has documentation which shows the household cannot be located or the CWA determines that such collection action may prejudice a case which has been referred for prosecution. In cases where the household was found guilty of intentional program violation by a court, the CWA shall request the matter of restitution be brought before the court.

(b) Procedure for collection of intentional program violation claims: Collection action shall be taken by sending the household a written demand letter which informs the household of the amount owed, the reason for the claim, the period of time the claim covers, any offsetting that was done to reduce the claim, how the household may pay the claim and the household's right to a fair hearing if the household disagrees with the amount of the claim, unless the issue of the amount of the claim has already been dealt with at the administrative disqualification hearing. If there is an individual or organization available that provides free legal representation, the written demand letter shall also advise the household of the availability of the service. The household shall also be informed of the length of time the household has to decide which method of repayment it will choose and inform the CWA of its decision and of the fact that the household's allotment will be reduced if the household fails to agree to make restitution. In addition, any household against which the CWA has initiated collection action shall be informed of its right to request renegotiation of any repayment schedule to which the household has agreed should the household's economic circumstances change. The demand letter shall provide space for the household to indicate the method of repayment and a signature block. A written demand letter for an intentional program violation claim shall be sent even if the household has previously received an inadvertent household error or administrative error demand letter. In addition to the written demand letter, a personal contact shall be made, if possible.

(c) Household fails to respond to first demand letter: If the household fails to respond to the first demand letter the following shall apply:

1. If the household is currently participating in the program and does not respond to the first demand letter immediately upon receipt of the letter, the CWA shall reduce the household's food stamp allotment.

2. If the household is currently not participating in the program and does not respond to the first demand letter, additional demand letters shall be sent at 30 day intervals until the household agrees to pay the claim, or the criteria for suspending or terminating collection action as specified in (d) and (e) below have been met.

(d) Criteria for suspension of collection action: The CWA shall suspend collection action at any time it has documentation that the household cannot be located. If the CWA has sent at least one demand letter for claims under \$100.00, at least two demand letters for claims between \$100.00 and \$400.00, and at least three demand letters for claims of more than \$400.00, further collection action shall be suspended when the cost of further collection action is likely to exceed the amount that can be recovered.

(e) Criteria for terminating collection action: A claim shall be determined uncollectible after it is held in suspense for three years. A CWA may use a suspended or terminat-

ed claim to offset benefits in accordance with N.J.A.C. 10:87-11.17(d).

Amended by R.1983 d.224, effective May 31, 1983.

See: 15 N.J.R. 633(a), 15 N.J.R. 1034(a).

Originally adopted as an Emergency Rule, R.1983 d.117, eff. March 31, 1983, operative April 1, 1983. The amendments are 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).

Text formerly codified at 10:87-11.26, expansion of rule and change from "fraud" to "intentional program violation".

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

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

Recodified and substantially amended from 11.27.

Amended by R.1993 d.62, effective February 1, 1993.

See: 24 N.J.R. 3207(b), 25 N.J.R. 584(a).

In (c)1: changed response to demand letter from within 30 days to immediately upon receipt.

Case Notes

Board not allowed to reduce Food Stamp and AFDC benefits to recoup overpayment of benefits after welfare debt discharged in bankruptcy. Burlington Cty. Welfare Bd. v. J.R., 4 N.J.A.R. 34 (1983).

10:87-11.30 Changes in household composition

(a) If a change in household membership occurs, the CWA shall initiate collection action against any or all of the adult members of a household at the time an overissuance occurred. If a change in household composition occurs, CWAs may pursue collection action against any household which has a member who was an adult member of the household that received the overissuance. The CWA may also offset the amount of the claim against restored benefits owed to any household which contains a member who was an adult member of the original household at the time the overissuance occurred. Under no circumstances shall the CWA collect more than the amount of the claim.

As amended, R.1983 d.224, eff. May 31, 1983.

See: 15 N.J.R. 633(a), 15 N.J.R. 1034(a).

Originally adopted as an Emergency Rule, R.1983 d.117, eff. March 31, 1983, operative April 1, 1983. The amendments are 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).

Text formerly codified at 10:87-11.27, deleted and replaced.

Amended by R.1988 d.173, effective April 18, 1988.

See: 20 N.J.R. 162(c), 20 N.J.R. 903(c).

Substantially amended.

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

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

Recodified from 11.28.

10:87-11.31 Methods of collection

(a) The CWA shall collect intentional program violation, inadvertent household error and administrative error claims in accordance with N.J.A.C. 10:87-11.31 and 11.32.

(b) Lump sum repayment: The CWA shall collect payments from households in one lump sum if the household is financially able to pay the claim in one lump sum. However, the household shall not be required to liquidate all of its assets to make a lump sum payment.

1. If the household is financially unable to pay the entire amount of the claim at one time but wishes to make a lump sum payment as partial payment of the claim, the CWA shall accept this method of payment.

2. If the household chooses to make a lump sum payment of food coupons as full or partial payment of the claim, the CWA shall accept this method of payment.

(c) Installments: If the household has insufficient liquid resources or is otherwise financially unable to pay the claim in one lump sum, the CWA shall negotiate a payment schedule. Payments shall be accepted by the CWA in regular installments. The household may use food coupons as full or partial payment of any installment.

1. In the case of inadvertent household error and intentional program violation claims, the CWA shall ensure that the negotiated amount to be repaid each month through installments is not less than the amount which could be recovered through allotment reduction (see (d) below). Once negotiated, the amount to be repaid each month shall remain the same regardless of changes in the household's monthly coupon allotment. However, the CWA and the client have the option to initiate renegotiation of the payment schedule if they believe the household's economic circumstances have changed enough to warrant such action.

2. Compromise of claim: If the full amount of the claim cannot be liquidated in three years without creating a financial hardship on the household, the CWA shall compromise the claim by reducing it to an amount that will allow the household to pay the claim in three years. The CWA may use the amount of such reduction of the claim to offset benefits in N.J.A.C. 10:87-11.13.

3. If the household fails to make a payment in accordance with the established repayment schedule (either a lesser amount or no payment), the CWA shall send the household a notice explaining that no payment or an insufficient payment was received. The notice shall inform the household that it may contact the CWA to discuss renegotiation of the payment schedule. The notice shall also inform the household that unless the overdue payments are made or the CWA is contacted to discuss renegotiation of the payment schedule, the allotment of a currently participating household against which an inadvertent household error or intentional program violation claim has been established may be reduced without a notice of adverse action.

i. If the household responds to the notice, the CWA shall take one of the following actions as appropriate:

(1) If the household makes the overdue payments and wishes to continue payments based on the previous schedule, permit the household to do so;

(2) If the household requests renegotiation of its payment schedule, the CWA will attempt to renegotiate a new payment schedule. If a settlement cannot be reached or if the CWA believes that the household's economic circumstances have not changed enough to warrant the requested settlement, the CWA shall invoke allotment reduction against a participating household for whom an inadvertent household error or intentional program violation has been established.

ii. If a currently participating household against which an inadvertent household error or intentional program violation claim has been established fails to respond to the notice, the CWA shall invoke allotment reduction.

(d) Allotment reduction: The CWA shall collect payments for inadvertent household error and intentional program violation claims from households currently participating in the program by reducing the household's food stamp allotment.

1. Administrative error claims may be collected through allotment reduction if the household prefers this method of repayment.

2. Prior to reducing the household's monthly allotment, the CWA shall advise the household of the appropriate formula to be used to determine the amount of food stamps to be recovered each month, the effect on the coupon allotment and the availability of other methods of repayment. If the household does not select another method of repayment, the CWA shall determine the amount to be recovered each month as follows:

i. Inadvertent household error: The household's food stamp allotment shall be reduced by the greater of 10 percent of the monthly allotment of \$10.00. The allotment may be reduced by a greater amount if the household so chooses.

ii. Administrative error claims: The household's food stamp allotment shall be reduced by an amount agreed upon by the household.

iii. Intentional program violation claims: The household's food stamp allotment shall be reduced by the greater of 20 percent of the household's entitlement or \$10.00. The allotment may be reduced by a greater amount if the household so chooses.

(1) Entitlement refers to the amount of food stamps the household would be entitled to receive if the disqualified individual were not disqualified.

iv. The provision for a \$10.00 minimum benefit for one or two member households shall apply to the allotment before reduction.

v. If the household has multiple claims against it, only one intentional program violation claim and one inadvertent household error claim may be collected at one time without client consent.

(e) Receipt and transmittal of collections: The CWA shall instruct the household to submit checks or money orders payable to the respective CWA.

1. Receipt: The CWA shall issue a lawful receipt for any repayment which is accepted. Payments received shall be deposited in the CWA Clearing Account and a record of the receipt of the payment maintained on a separate section of the Clearing Account Subsidiary Ledger.

2. Transmittal of payments to the DFD: At the end of each calendar month a check shall be drawn, payable to "Treasurer, State of New Jersey", for the total amount of such funds received during that month and transmitted to the DFD.

i. Form FSP-965: Along with the consolidated check, the CWA shall submit a Form FSP-965, "Claims Accounts" indicating the case number, the household's name, amount of claim, current payment, amount paid to date and balance due. Separate schedules shall be submitted for Claims Paid in Full, Partial Payments and New Claims and Payments for Ongoing Accounts.

(f) Accounting procedures: Each CWA shall be responsible for maintaining an accounting system for monitoring claims against households. The accounting system shall be designed to accomplish the following:

1. Document circumstances: Document the circumstances which resulted in a claim, the procedures used to calculate the claim, the methods used to collect the claim and, if applicable, the circumstances which resulted in suspension or termination of collection action.

2. Identify unreturned benefits: Identify those situations in which an amount not yet returned to a household can be used to offset a claim owed by the household.

3. Identify households failing to make payments: Identify those households that have failed to make installment payments on their claims.

4. Document collections: Document how much money was collected and how much was submitted to the DFD.

(g) Claims discharged through bankruptcy: The CWA shall act on behalf of, and as, FNS in any bankruptcy proceeding against any bankrupt households owing food stamp claims. The CWA shall possess rights, priorities, interests, liens or privileges, and shall participate in any distributions of assets, to the same extent as FNS. Acting as FNS, the CWA shall have the power and authority to file objections to discharge, proofs of claims, exceptions to discharge, petitions for revocation of discharge, and any other documents, motions or objections which FNS might have filed. Any amounts collected under this authority shall be transmitted to the DFD as provided in (d) above.

(h) Other collection action: The CWA may also pursue other collection actions, as appropriate, to obtain restitution of a claim against any household which fails to respond to a written demand letter for repayment of a claim.

(i) CWAs are prohibited from commencing or continuing the collection of a food stamp claim against an overissued household which is awaiting the outcome of a bankruptcy court petition.

Amended by R.1979 d.422, effective October 18, 1979.

See: 11 N.J.R. 379(a), 11 N.J.R. 559(d).

Amended by R.1983 d.224, effective May 31, 1983.

See: 15 N.J.R. 633(a), 15 N.J.R. 1034(a).

Originally adopted as an Emergency Rule, R.1983 d.117 eff. March 31, 1983, operative April 1, 1983. The amendments are 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).

Text formerly at 10:87-11.28; rules greatly expanded.

Amended by R.1984 d.68, effective March 19, 1984.

See: 15 N.J.R. 2134(b), 16 N.J.R. 550(a).

(a)7, other collection action, added.

Amended by R.1985 d.346, effective July 1, 1985.

See: 17 N.J.R. 883(a), 17 N.J.R. 1659(a).

(a)3ii(5) added.

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

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

Recodified from 11.29 and substantially amended.

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

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

Added new Subsection (i).

10:87-11.32 Interstate claims collection

(a) A household which relocates from another State into an area under the jurisdiction of New Jersey shall be subject to claims collection for any overissuance the household incurred while receiving food stamp benefits.

(b) Prior to initiating action to collect an overissuance which occurred in another State, the CWA shall contact the State agency which overissued the benefits to ascertain their intention to pursue prompt collection. The State agency which overissued the benefits shall have the first opportunity to collect an overissuance.

(c) The CWA should initiate action to collect the overissuance if the State agency which overissued benefits fails or is unwilling to take prompt collection action. Claims collected shall be retained by DFD in accordance with current fiscal procedures.

New Rule, R.1989 d.121, effective February 21, 1989.

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

10:87-11.33 CWA reporting requirements for incorrect issuances

(a) Each CWA shall report information concerning individuals disqualified for intentional program violation, including those individuals disqualified based on the determination of an administrative disqualification hearing official or a court of appropriate jurisdiction and those individuals disqualified as a result of signing either a waiver of right to a disqualification hearing or a disqualification consent agreement. This information shall be submitted to the Division of Family Development no later than 10 days after the date the disqualification either took effect or would have taken effect. The data submitted will be made available for use by other county and State welfare agencies.

(b) The CWA may determine the eligibility of program applicants to those cases where the agency believes that a household member is subject to disqualification in another jurisdiction. This procedure does not restrict CWAs from screening all program applicants prior to certification or periodically matching the entire list of disqualified individuals against current caseloads.

(c) The CWA shall submit a report to purge the data file of information relating to a disqualification in cases where the IPV is reversed by a court of appropriate jurisdiction.

New Rule, R.1989 d.121, effective February 21, 1989.

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

SUBCHAPTER 12. TABLES

Subchapter Historical Note

Public Notice: Change in standards for food stamp income eligibility. See: 23 N.J.R. 3030(a). Public Notice: Change in food stamp income eligibility, deduction, and coupon allotment standards. See: 29 N.J.R. 4346(a). See annotations at the section level for further amendments.

10:87-12.1 Income deductions

(a) The Standard Deduction shall be that calculated by the United States Department of Agriculture pursuant to 7 CFR 273.9(d)(7), published annually in the Federal Register, pursuant to 7 CFR 273.9(d)(1), and effective October 1 of each year.

(b) The Shelter Deduction shall be that calculated by the United States Department of Agriculture pursuant to 7 CFR 273.9(d)(8), published annually in the Federal Register, pursuant to 7 CFR 273.9(d)(5), and effective October 1 of each year.

(c) The Uniform Telephone Allowance shall be calculated by totalling the New Jersey Bell Telephone Company highest regional Flat Rate Service charge, the FCC subscriber line charge, applicable Federal Tax and the monthly A.T. & T. monthly leasing charge for a rotary dial telephone. As required by 7 CFR 273.9(d)(6), DFD shall review and adjust the Uniform Telephone Allowance on July 1, to be effective October 1 of each year.

(d) The Standard Utility Allowance shall be recalculated annually by DFD effective October 1, in accordance with 7 CFR 273.9(d) and the "Texas" methodology described in USDA Notice No. 79-47, issued May 25, 1979 and shall be the sum of the following:

1. The Major Non-Heating Utility component shall be calculated by collecting data from food stamp households in 1977 and 1978 to ascertain the non-heating utility expenses which those households incurred. The data shall be arranged to project what the 95th percentile of such monthly costs are, thus arriving at a Base Period amount of \$49.00 per month. The Base Period amount shall be updated to reflect projected non-heating major utility costs by using the U.S. Bureau of Labor Statistics' Consumer Price Indices-Urban "Fuels" item for the New York/Northern New Jersey and Philadelphia metropolitan regions to create an average "New Jersey Consumer Price Index" (NJ CPI-U) which represents major non-heating utility costs incurred in New Jersey urban areas. The 12 NJ CPI-U statistics representing July of the previous year through June of the current year shall be trended (straight line, least squares method) to project the average non-heating index amounts for November of the current year to October of the following year. The comparison of this average to that which existed in 1977 shall produce an inflation adjustment factor to be applied to the average monthly non-heating base cost figure of \$49.00.

2. The Minor Non-Heating Utility component (representing sewerage, garbage, water, and trash) shall be calculated by collecting data from food stamp households in 1977 and 1978 to ascertain the minor non-heating utility expenses which those households incurred. The data shall be arranged to project what the 95th percentile of such costs are, thus arriving at a Base Period amount of \$1.34 per month. The Base Period amount shall be updated to reflect projected minor non-heating utility costs by using the U.S. Bureau of Labor Statistics' Consumer Price Indices-Urban "All Items" item for the New York/Northern New Jersey and Philadelphia metropolitan regions to create an average "New Jersey Consumer Price Index" (NJ CPI-U) which represents minor non-heating utility costs incurred in New Jersey urban areas. The 12 NJ CPI-U statistics representing July of the previous year through June of the current year shall be trended (straight line, least squares method) to project the average minor utility index amounts for November of the current year to October of the following year. The comparison of this average to that which existed in 1977 shall produce an inflation adjustment factor to be applied to the average monthly minor non-heating Base Period amount of \$1.34.

3. The Uniform Telephone Allowance described at N.J.A.C. 10:87-12.1(c) shall be a component of the SUA.

(e) The Heating Utility Allowance shall be recalculated annually by DFD effective October 1, in accordance with 7 CFR 273.9(d) and the "Texas" methodology described in USDA Notice No. 79-47, issued May 25, 1979 and shall be the sum of the following:

1. The Major Heating Utility component shall be calculated by collecting data from food stamp households in 1977 and 1978 to ascertain the heating utility expenses which those households incurred. The data shall be arranged to project what the 75th percentile of such monthly costs are, thus arriving at a winter Base Period amount of \$128.00 to represent November through April monthly utility costs, and a summer Base Period amount of \$44.00 to represent May through October monthly utility costs. Each base period amount shall be updated to reflect heating utility costs by using the U.S. Bureau of Labor Statistics' Consumer Price Indices-Urban "Fuels" item for the New York/Northern New Jersey and Philadelphia metropolitan regions. The six NJ CPI-U statistics for July through December of the previous year shall be trended (straight line, least squares method) to project the average heating index amounts for November of the current year through April of the following year. The six NJ CPI-U statistics for January through June of the following year shall be trended (straight line, least squares method) to project the average heating index amounts for May through October of the following year. Each amount shall be compared to the 1977 base data, thus creating an inflation adjustment factor. Each inflation adjustment factor shall be applied to the appropriate winter or summer Base Period amount. The totals shall be averaged to arrive at the annual Heating Utility component.

2. The Minor Non-Heating Utility component described at N.J.A.C. 10:87-12.1(d)2 shall be included in the HUA.

3. The Uniform Telephone Allowance described at N.J.A.C. 10:87-12.1(c) shall be a component of the HUA.

(f) The Homeless Shelter Allowance shall be that amount prescribed by the United States Department of Agriculture, as defined at 7 CFR 273.9(d)(5)(i).

Amended by R.1979 d.234, effective July 1, 1979.

See: 11 N.J.R. 346(e).

Amended by R.1979 d.387, effective October 1, 1979.

See: 11 N.J.R. 448(a), 11 N.J.R. 559(a).

Amended by R.1979 d.477, effective January 1, 1980.

See: 12 N.J.R. 42(a).

Standard Deduction was \$70.00

Amended by R.1980 d.154, effective May 1, 1980.

See: 12 N.J.R. 278(d).

Utility Allowance was \$189.00.

Amended by R.1980 d.418, effective November 1, 1980.

See: 12 N.J.R. 663(b).

SUA amended to winter rate of \$259.00

Amended by R.1980 d.558, effective January 1, 1981.

See: 13 N.J.R. 100(e).

Standard deduction was \$75.00: "Dependent" care was "child" care, \$90.00.

Amended on an emergency basis, R.1981 d.398, effective September 30, 1981 (operative October 1, 1981), exp. November 30, 1981. See: 13 N.J.R. 769(a). Readopted, R.1981 d.517, effective December 31, 1981.

See: 13 N.J.R. 769(a), 14 N.J.R. 103(a).

Standard utility allowance increased from "\$259.00" to "\$333.00."

Amended by R.1982 d.318, effective September 1, 1982.

See: 14 N.J.R. 757(d), 14 N.J.R. 1057(a).

Uniform Telephone Allowance changed from \$7.96 to \$8.36, reflecting cost increase. Standard Utility Allowance changed from \$333.00 to \$179.00 reflecting summer decreases in heating costs.

Amended by R.1982 d.442, effective December 1, 1982.

See: 14 N.J.R. 1170(a), 14 N.J.R. 1463(a).

Originally filed as an emergency adoption (R.1982 d.365) on October 1, 1982. Readopted as R.1982 d.442. Updated standard utility allowance; from \$179.00 to \$286.00.

Amended by R.1983 d.72, effective February 28, 1983.

See: 15 N.J.R. 97(a), 15 N.J.R. 444(a).

Originally filed as an emergency adoption (R.1983 d.503) on December 30, 1982. Readopted as R.1983 d.72. Standard utility allowance and housing utility allowance separated and telephone allowance increased.

Amended by R.1983 d.579, effective November 29, 1983.

Originally filed as an emergency amendment R.1983 d.460, effective September 26, 1983, operative October 1, 1983.

See: 15 N.J.R. 1774(a), 15 N.J.R. 2170(c).

Standard deduction and child care/shelter deduction increased; JUA and HUA decreased by annualization.

Emergency Amendment, R.1984 d.465, effective September 28, 1984 (operative October 1, 1984, expires November 27, 1984).

See: 16 N.J.R. 2844(a).

Increased income deductions.

Readopted, R.1984 d.567, effective November 28, 1984.

See: 16 N.J.R. 2844(a), 16 N.J.R. 3450(a).

Previously emergency rule R.1984 d.465.

Emergency Amendment, R.1985 d.526, effective September 26, 1985 (operative October 1, 1985, expires November 25, 1985).

See: 17 N.J.R. 2564(a).

Income Deduction Table revised.

Readoption, R.1985 d.647, effective November 26, 1985.

See: 17 N.J.R. 2564(a), 17 N.J.R. 2978(a).

Emergency Amendment, R.1985 d.713, effective December 27, 1985 (operative January 1, 1986), expires February 24, 1986.

See: 18 N.J.R. 214(a).

Added "Standard Utility Allowance/Vendor" and "Heating Utility Allowance/Vendor" to Table 1.

Emergency Amendment, R.1986 d.191, effective April 29, 1986 (operative May 1, 1986, expires June 30, 1986).

See: 18 N.J.R. 1108(a).

Shelter deduction raised from \$139.00 to \$147.00.

Readopted Emergency Amendment and Concurrent Proposal, R.1986 d.301, effective June 30, 1986.

See: 18 N.J.R. 1108(a), 18 N.J.R. 1464(b).

Emergency Amendment, R.1986 d.436, effective September 29, 1986 (operative October 1, 1986, expires November 28, 1986).

See: 18 N.J.R. 2137(a).

Adoption of Concurrent Proposal, R.1987 d.5, effective November 26, 1986.

See: 18 N.J.R. 2137(a), 19 N.J.R. 129(a).

Emergency Amendment, R.1987 d.431, effective October 1, 1987 (expires November 30, 1987).

See: 19 N.J.R. 1916(a).

Adopted concurrent proposal, R.1987 d.529, effective November 30, 1987.

See: 19 N.J.R. 1916(a), 19 N.J.R. 2402(c).

Emergency Amendment, R.1988 d.512, effective September 30, 1988 (operative October 1, 1988, expires November 29, 1988).

See: 20 N.J.R. 2591(b).

Raise in income deductions.

Adoption of concurrent proposal, R.1989 d.1, effective November 29, 1988.

See: 20 N.J.R. 2592(a), 21 N.J.R. 21(a).

Provisions of emergency amendment R.1988 d.512 readopted without change.

Emergency Amendment, R.1989 d.533, effective September 22, 1989 (expires November 21, 1989).

See: 21 N.J.R. 3316(a).

Income deductions raised to conform to Federal requirements.

Adopted concurrent proposal, R.1989 d.606, effective November 21, 1989. See: 21 N.J.R. 3316(a), 21 N.J.R. 3918(b). Provisions of emergency amendment R.1989 d.533 readopted without change.

Amended by R.1990 d.437, effective September 4, 1990.

See: 22 N.J.R. 1670(a), 22 N.J.R. 2715(a).

Deleted Table I and added new text from (a)-(e).

Public Notice: Income deductions revised to conform to Federal requirements.

See: 21 N.J.R. 3316(a).

Maximum allowable gross income raised to conform to Federal requirements.

Adopted concurrent proposal, R.1989 d.606, effective November 21, 1989.

See: 21 N.J.R. 3316(a), 21 N.J.R. 3918(b).

Provisions of emergency amendment R.1989 d.533 readopted without change.

Amended by R.1990 d.437, effective September 4, 1990.

See: 22 N.J.R. 1670(a), 22 N.J.R. 2715(a).

Deleted Table IV, replacing with text explaining annual calculation and publishing schedule.

Public Notice: Maximum allowable gross income revised to conform to Federal requirements.

See: 24 N.J.R. 3769(b).

Public Notice: Maximum allowable gross income, effective October 1, 1993.

See: 25 N.J.R. 5365(a).

Public Notice: Maximum allowable gross income, effective October 1, 1994.

See: 26 N.J.R. 3901(a).

Public Notice: Income deductions, effective October 1, 1995.

See: 27 N.J.R. 4919(b).

Public Notice: Income deductions, effective December 1, 1995.

See: 28 N.J.R. 200(a).

Public Notice: Income deductions, effective October 1, 1996.

See: 28 N.J.R. 4677(b).

Public Notice: Income deductions, effective January 1, 1997.

See: 29 N.J.R. 947(c).

Case Notes

Emergency adoption of regulation cited as example of timely regulation amendment. *Eherenstorfer v. Div. of Public Welfare*, 196 N.J.Super. 405, 483 A.2d 212 (App.Div.1984).

10:87-12.2 Maximum coupon allotment

The Maximum Coupon Allotment shall be that calculated by the United States Department of Agriculture, pursuant to 7 CFR 273.10(e)(4), published annually in the Federal Register, pursuant to 7 CFR 273.9(e)(4), and effective October 1 of each year.

Amended by R.1979 d.234, effective July 1, 1979.

See: 11 N.J.R. 346(e).

Amended by R.1979 d.477, effective January 1, 1980.

See: 12 N.J.R. 42(a).

Increased Maximum Coupon Allotment.

Amended by R.1980 d.296, effective July 1, 1980.

See: 12 N.J.R. 482(b).

Amended to reflect the Federal adjustment in maximum allowance monthly coupon allotments.

Amended by R.1980 d.558, effective January 1, 1981.

See: 13 N.J.R. 100(e).

Substantially amended.

Amended by R.1982 d.442, effective December 1, 1982.

See: 14 N.J.R. 1170(a), 14 N.J.R. 1463(a).

Originally filed as an emergency adoption (R.1982 d.365) on October 1, 1982. Readopted as R.1982 d.442. Increase in monthly coupon allotment.

Amended by R.1983 d.579, effective November 29, 1983.

Originally filed as an emergency amendment R.1983 d.460, effective September 26, 1983, operative October 1, 1983.

See: 15 N.J.R. 1774(a), 15 N.J.R. 2170(c).

\$1 or \$2 increase in most coupon allotments.

Emergency Amendment, R.1984 d.465, effective September 28, 1984 (operative October 1, 1984).

See: 16 N.J.R. 2844(a).

Increase in coupon allotments.

Readopted, R.1984 d.567, effective November 1, 1984.

See: 16 N.J.R. 2844(a), 16 N.J.R. 3450(a).

Previously emergency rule R.1984 d.465. Maximum coupon allotment changed.

Emergency Amendment, R.1985 d.526, effective September 26, 1985 (operative October 1, 1985, expires November 25, 1985).

See: 17 N.J.R. 2564(a).

Coupon allotment revised.

Readoption, R.1985 d.647, effective November 26, 1985.

See: 17 N.J.R. 2564(a), 17 N.J.R. 2978(a).

Emergency Amendment, R.1986 d.436, effective September 29, 1986 (operative October 1, 1986, expires November 28, 1986).

See: 18 N.J.R. 2137(a).

Adoption of Concurrent Proposal, R.1987 d.5, effective November 26, 1986.

See: 18 N.J.R. 2137(a), 19 N.J.R. 129(a).

Emergency Amendment, R.1987 d.431, effective October 1, 1987 (expires November 30, 1987).

See: 19 N.J.R. 1916(a).

Adopted concurrent proposal, R.1987 d.529, effective November 30, 1987.

See: 19 N.J.R. 1916(a), 19 N.J.R. 2402(c).

Emergency Amendment, R.1988 d.512, effective September 20, 1988 (operative October 1, 1988, expires November 29, 1988).

See: 20 N.J.R. 2592(a).

Raised minimum coupon allotment.

Adoption of concurrent proposal, R.1989 d.1, effective November 29, 1988.

See: 20 N.J.R. 2592(a), 21 N.J.R. 21(a).

Provisions of emergency rule R.1988 d.512 readopted without change.

Emergency Amendment, R.1989 d.533, effective September 22, 1989 (expires November 21, 1989).

See: 21 N.J.R. 3316(a).

Maximum coupon allotments raised to conform to Federal requirements.

Adopted concurrent proposal, R.1989 d.606, effective November 21, 1989.

See: 21 N.J.R. 3316(a), 21 N.J.R. 3918(b).

Provisions of emergency amendment R.1989 d.533 readopted without change.

Amended by R.1990 d.437, effective September 4, 1990.

See: 22 N.J.R. 1670(a), 22 N.J.R. 2715(a).

Deleted Table II, replacing with text explaining annual calculation and publishing schedule.

Public Notice: Maximum Coupon Allotment (MCA) revised to conform with Federal requirements.

See: 24 N.J.R. 3769(b).

Public Notice: MCA, effective October 1, 1993.

See: 25 N.J.R. 5365(a).

Public Notice: MCA, effective October 1, 1994.

See: 26 N.J.R. 3901(a).

Public Notice: Maximum coupon allotment, effective October 1, 1995.

See: 27 N.J.R. 4919(b).

Public Notice: Maximum coupon allotment, effective October 1, 1996.

See: 28 N.J.R. 4677(b).

Case Notes

Emergency adoption of regulation cited as example of timely regulation amendment. *Eherenstorfer v. Div. of public Welfare*, 196 N.J.Super. 405, 483 A.2d 212 (App.Div.1984).

10:87-12.3 Maximum allowable net income standards

The Maximum allowable net income standards shall be those calculated by the United States Department of Agriculture and published annually in the Federal Register, pursuant to 7 CFR 273.9(a) and effective October 1 of each year.

Amended by R.1979 d.234, effective July 1, 1979.

See: 11 N.J.R. 346(e).

Amended by R.1980 d.296, effective July 1, 1980.

See: 12 N.J.R. 483(b).

Amended by R.1981 d.400, effective October 1, 1981.

See: 13 N.J.R. 500(a), 13 N.J.R. 772(a).

Net income standard increased.

Amended to reflect the Federal adjustment in maximum allowable net income standards.

Amended by R.1982 d.318, effective September 2, 1982.

See: 14 N.J.R. 757(d), 14 N.J.R. 1057(a).

Increases in maximum allowable net income reflect annual Federal adjustment for cost of living.

Amended by R.1983 d.382, effective August 30, 1983.

See: 15 N.J.R. 1185(a), 15 N.J.R. 1583(b).

Net income standards increased.

Amended by R.1984 d.413, effective September 17, 1984.

See: 16 N.J.R. 1935(a), 16 N.J.R. 2442(a).

Net income standards increased.

Emergency Amendment, R.1984 d.371, effective June 24, 1985 (operative July 1, 1984 expired, August 23, 1985).

See: 17 N.J.R. 1793(a).

Maximum Allowable Income raised.

Readoption, R.1985 d.480, effective August 26, 1985.

See: 17 N.J.R. 1793(a), 17 N.J.R. 2273(b).

Emergency Amendment and Concurrent Proposal, R.1986 d. 297, effective June 30, 1986 (operative July 1, 1986).

See: 18 N.J.R. 1490(a).

Maximum Allowable Income raised.

Readopted Concurrent Proposal, R.1986 d.395, effective October 6, 1986.

See: 18 N.J.R. 1490(a), 18 N.J.R. 2015(c).

Emergency Amendment, R.1987 d.304, effective June 25, 1987 (operative July 1, 1987, expires August 24, 1987).