

CHAPTER 90

WORK FIRST NEW JERSEY PROGRAM

Authority

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

Source and Effective Date

R.2007 d.240, effective July 16, 2007.
See: 39 N.J.R. 832(a), 39 N.J.R. 3936(a).

Chapter Expiration Date

Chapter 90, Work First New Jersey Program, expires on July 16, 2012.

Chapter Historical Note

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 Chapter 90, The Handbook for Home Services Program, was repealed by R.1980 d.208, effective May 9, 1980.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

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

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

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

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

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

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

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

Chapter 90, Work First New Jersey Program, was readopted as R.2003 d.226, effective May 5, 2003. As a part of R.2003 d.226, Subchapter 18, Essex/Atlantic Substance Abuse Research Demonstration, was repealed and Subchapter 18, Substance Abuse, and Subchapter 20, The Family Violence Option Initiative, were adopted as new rules, effective June 16, 2003. See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).

Chapter 90, Work First New Jersey Program, was readopted as R.2007 d.240, effective July 16, 2007. See: Source and Effective Date.

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An adult applicant for WFNJ shall not be eligible for benefits when the applicant's eligibility is the result of a voluntary cessation of employment, without good cause, including situations in which an applicant has been discharged from employment due to an action or inaction on his or her part in violation of the employer's written rules or policies, or lawful job related instructions within 90 days prior to the date of application. The applicant shall be ineligible for assistance for a period of 90 days beginning with the date of quit. Other members of the adult applicant's assistance unit shall remain eligible to apply for benefits. The individual who voluntarily ceased employment shall be responsible for providing the necessary information so that a good cause determination can be made (see N.J.A.C. 10:90-4.14(b) for voluntary quit provisions for WFNJ recipients and N.J.A.C. 10:90-4.14(c) regarding good cause provisions).

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

10:90-1.16 Assignment or transfer of property

A voluntary assignment or transfer of income or resources within one year prior to the time of application for benefits for the purpose of qualifying for WFNJ benefits shall render the applicant/recipient and the applicant/recipient's assistance unit members ineligible for benefits in accordance with N.J.A.C. 10:90-3.10(e).

SUBCHAPTER 2. NON-FINANCIAL ELIGIBILITY REQUIREMENTS

10:90-2.1 General provisions

(a) This subchapter describes those Work First New Jersey (WFNJ) program eligibility factors, other than financial, which must be considered in making eligibility determinations.

(b) Eligibility for WFNJ is based upon certain criteria including, but not limited to, age, relationship, CSP cooperation, cooperation with work requirements, citizenship/eligible alien status, residence in the State, county and municipality and financial need.

1. In addition to the conditions of eligibility for WFNJ/TANF at N.J.A.C. 10:90-2.2, participation in the Early Employment Initiative (EEI) program is a condition of eligibility for those WFNJ/TANF applicant families which meet the EEI eligibility criteria for participation in

accordance with the EEI provisions set forth at N.J.A.C. 10:90-17.

(c) Maximum allowable income eligibility and benefit payment levels for assistance units eligible for WFNJ benefits appear at N.J.A.C. 10:90-3.

Amended by R.1998 d.42, effective January 20, 1998.
 See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).
 Amended by R.1998 d.383, effective July 20, 1998, (operative August 1, 1998).
 See: 30 N.J.R. 1489(a), 30 N.J.R. 2656(a).
 In (b), added a new 1.
 Amended by R.2003 d.226, effective June 16, 2003.
 See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).
 In (b)1, substituted "program" for "pilot project".

10:90-2.2 WFNJ TANF/GA eligibility requirements

(a) An applicant/recipient, as a condition of eligibility for WFNJ TANF/GA benefits, shall, subject to good cause exceptions, be required to do the following:

1. Cooperate with child support by identifying his or her child(ren), providing specific information regarding the noncustodial or custodial parent(s), such as, name, address, date of birth, and social security number and take certain actions as requested by the appropriate child support agency to help establish paternity, or establish, modify, or enforce a child support order (see N.J.A.C. 10:90-16.2(a)2v and 16.3(d));
2. Cooperate with work requirements;
3. Make application for any other assistance for which members of the assistance unit may be eligible;
4. Be income and resource eligible, including the deeming of income and resources as appropriate;
5. Provide all necessary documentation;
6. Sign an Agreement to Repay benefits (pursuant to N.J.S.A. 44:10-64), if not already incorporated into the application, in the event of receipt of income or resources. (See N.J.A.C. 10:90-3.18 for treatment of lump sum income as well as N.J.A.C. 10:90-7.8 for settlement of suits and claims);
7. Satisfy any sanction or repayment obligation incurred pursuant to any Federal or State law governing public assistance;
8. Supply the county/municipal agency with the Social Security number of each member of the assistance unit or apply for a Social Security number for any such person who does not already have one. If an applicant refuses to provide or apply for the appropriate Social Security number(s), the county/municipal agency shall declare the entire assistance unit ineligible for WFNJ benefits.

i. Effective no later than July 1, 1998, the Federal Social Security number shall be used as the common identifier of individuals for any record, license, certificate or other document identifying a person by name which is used by an agency of State government in accordance with requirements of Federal law.

ii. The Federal Social Security number must be provided for all assistance unit members, except for an eligible alien who cannot be assigned a Social Security number due to his or her status;

9. Comply with personal identification requirements as a condition of receiving benefits, which shall employ the use of high technology processes for the detection of fraud.

i. Each adult WFNJ/TANF applicant/recipient and each WFNJ/GA applicant/recipient (except nursing facility applicants/recipients) shall, as a condition of receiving WFNJ benefits, be issued a photo-identification card by the county agency until implementation of the electronic benefit distribution system is begun in that county agency. Once a county begins to implement the electronic benefit distribution system, the county agency shall no longer be required to issue a photo-identification card to each adult recipient but may continue the issuance of photo-identification cards separate from the benefit cards.

ii. WFNJ/GA applicants/recipients (except nursing facility applicants/recipients) are required to participate in the high technology process at the time of application and at other times when the county/municipal agency deems it necessary to deter duplication of assistance.

(b) An applicant/recipient who is a parent-minor must, as a condition of eligibility, comply with all of (a) above and must also cooperate with the parent-minor provisions cited at N.J.A.C. 10:90-2.17.

1. Failure of the parent-minor to cooperate with the requirements listed at (a) above renders the parent-minor and the parent-minor's child ineligible for WFNJ/TANF cash assistance but does not render the entire assistance unit with whom the parent-minor resides ineligible for WFNJ/TANF cash assistance.

(c) All adult recipients, teen parents and 16 through 18 year old individuals not attending school on a full-time basis, shall sign an initial individual responsibility plan which shall be developed jointly with the county or municipal agency in accordance with the provisions at N.J.A.C. 10:90-1.2(f)3 for the initial IRP and N.J.A.C. 10:90-4.8 for the IRP as it relates to work requirements.

(d) Any WFNJ applicant/recipient who fails at any time to cooperate with any of the WFNJ program eligibility requirements without good cause shall render some or all assistance unit members ineligible for WFNJ benefits. (See N.J.A.C. 10:90-11.11 regarding intentional program violation disqualification penalties.)

1. An applicant/recipient who cooperates fully with the conditions of eligibility listed in (a) above, but who has a non-cooperating 16 through 18 year old dependent child as a member of the assistance unit, shall not become ineligible for WFNJ/TANF assistance, nor shall other members of the assistance unit become ineligible for WFNJ/TANF assistance. The non-cooperating 16 through 18 year old dependent child does, however, become ineligible for WFNJ/TANF assistance until such time as he or she complies.

(e) Any WFNJ recipient who fails at any time to participate in work activities without good cause shall lose cash assistance benefits in accordance with the sanction provisions at N.J.A.C. 10:90-4.11. The individual may re-apply for WFNJ benefits; however, the individual must satisfactorily complete any outstanding sanction obligations and demonstrate compliance with a work activity, in accordance with N.J.A.C. 10:90-4.11 and 4.18, in order to qualify for cash assistance.

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

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

Added (b)1 and (d)1.

Amended by R.2000 d.347, effective August 21, 2000.

See: 32 N.J.R. 2031(a), 32 N.J.R. 3070(a).

Rewrote (a)1.

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

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

In (a), inserted "noncustodial or" preceding "custodial" in 1, rewrote 6, and deleted references to fingerprinting in 9; in (c) added references to the initial IRP; in (e), amended N.J.A.C. references.

10:90-2.3 Time limits on eligibility for WFNJ TANF/GA benefits

(a) Effective April 2, 1997, eligibility for cash assistance benefits shall be limited to a lifetime total of 60 cumulative months for an adult individual recipient, except as otherwise provided in this subsection, whether the assistance was received in the WFNJ/TANF component, the WFNJ/GA component or a combination of both the WFNJ TANF/GA components of the program. The calculation of the lifetime limit will be based upon the number of days the recipient received benefits up to the 60 cumulative month lifetime limit.

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

2. In the event that a recipient who has received cash assistance as a dependent child or parent-minor and later becomes a head of household or other adult assistance unit member, the time during which such dependent child or parent-minor had previously received benefits shall not count toward the 60 cumulative months lifetime limit.

3. For eligible aliens identified at N.J.A.C. 10:90-2.10, who are single adults or couples without dependent children, the benefit period is further limited by the alien's eligibility and application for citizenship status.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

In (a)3i, added the last sentence.

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

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

1. Sixty years of age or older;

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

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

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

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

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

i. A permanently disabled individual is an individual whose physical or mental impairment, defect or injury prevents them from engaging in full time employment for a period of 12 or more months as certified by a physician or licensed nurse practitioner on a minimum of one WFNJ/MED-1, Examination Report. Such individuals may be awaiting eligibility determination for Federal long-term disability (SSI or RSDI) benefits or be among those who have been determined by the State Department of Labor to be impaired to such a degree that they will not likely achieve employment even with the provision of vocational rehabilitation services. This includes persons who are permanently disabled because of HIV related illness who are eligible for Federal SSI benefits.

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

iii. At the time of case redetermination, a permanently disabled individual's condition shall be reviewed. A recertification using a WFNJ/MED-1 shall not be required unless a change in condition occurs which indicates that the individual may be again work-ready. If the condition remains unchanged, a new Individual Responsibility Plan does not have to be completed for the permanently disabled individual.

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

4. Chronically unemployable as defined by the provisions below:

i. A chronically unemployable adult cannot be identified until at least 36 months have been spent in the WFNJ program and the adult exhibits a limited and inconsistent or no history of full-time, ongoing successful gainful employment (including, but not limited to, multiple or lengthy periods of unemployment or under-employment) or successful participation in work activities despite good faith efforts which have been documented.

ii. No single factor or employment barrier is used to make a determination of chronically unemployable, but rather, an individual shall be considered chronically unemployable if he or she has a limited and inconsistent or no work history as defined above and any one of the following criteria:

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

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

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

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

(C) Borderline mental retardation or severe learning disability;

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

(E) As long as New Jersey is within the 20 percent exemption limit allowed under PRWORA, adults who have participated in the Supportive Assistance for Individuals and Families (SAIF) program and demonstrated continued efforts to engage in education or employment activities but after 24 months of intensive intervention exhibit more than one barrier to employment, such as:

(I) Lack of a high school diploma/GED;

(II) Limited English proficiency;

(III) Lack of skills/training;

(IV) Criminal record (resistant to expunction or bonding);

(V) Lack of work experience;

(VI) Child care unavailable for a special needs child;

(VII) Family problems of participant or dependent involving behavioral health system, DYFS or legal issues; or

(VIII) Chronic health problems of participant or dependent (with Division of Medical Assistance and Health Services (DMAHS) review).

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

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

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

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

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

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

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

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

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

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

In (a)4iii, substituted "any one of the problem areas noted above" for "significant physical, emotional, or other disabilities."

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

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

Rewrote the section.

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

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

Substituted references to WFNJ/MED-1 for WFNJ-5 (DRS-1) throughout.

Amended by R.2006 d.137, effective April 17, 2006.

See: 37 N.J.R. 4153(a), 38 N.J.R. 1736(a).

In (a)1, substituted "Sixty years of age or older" for "Over 60 years of age"; rewrote (a)4i and ii; in (a)4iii, substituted "indications" for "symptoms".

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

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

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

i. Extensions due to extreme hardship or incapacity will be evaluated within the last three months of the eligibility period prior to reaching the 60-month lifetime limit on benefit assistance. Extensions of this nature require prior approval and authorization by DFD. The assistance unit's case record shall be reviewed to determine if cause to grant an extension due to extreme hardship or incapacity exists. Extreme hardship shall be defined as situations that would:

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

(2) Result when, during a review of the case record, it was determined that periods of temporary

incapacity experienced by the individual which resulted in work deferrals of more than 12 months did not allow the individual sufficient time in which to gain self-sufficiency during the individual's receipt of 60 months of cash assistance;

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

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

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

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

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

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

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

(c) When a case is closed with an adult(s) and his or her own natural or adoptive child(ren), then that case shall not be transferred automatically to a child only case. In order for a child(ren) who has had his or her case terminated with his or her parent(s) to return to the WFNJ program, another eligible needy parent-person or another non-needy parent-person who is not the child(ren)'s natural or adoptive parent must apply on behalf of the child(ren) who is now in his or her care unless the child's parent(s) later qualified for an extension or exemption. However, a related kinship child(ren) who is not

the natural and/or adoptive child(ren) of the recipient who was receiving cash benefits in an assistance unit that reaches the 60-month lifetime limit shall continue to receive benefits as a child only case with the former TANF head of household now designated as the payee for the related kinship child(ren).

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

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

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

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

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

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

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

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

Amended by R.2003 d.127, effective March 17, 2003.

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

Added (b).

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

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

Rewrote the section.

10:90-2.6 Family violence

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

1. Time limits on benefits;

2. Residency requirements;

3. The limitation on an increase of cash assistance benefits as a result of the birth of a child conceived as a result of domestic violence, rape or incest; and

4. Work requirements.

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

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

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

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

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

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

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

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

1. An eligible assistance unit under WFNJ/TANF shall be comprised of those individuals who are living together and functioning as one economic unit and whose relationship is based upon a blood and/or legal relationship.

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

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

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

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

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

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

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

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

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

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

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

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

i. The applicant/recipient;

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

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

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

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

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

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

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

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

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

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

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

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

3. Illegal aliens;

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

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

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

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

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

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

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

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

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

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

12. A GA applicant or recipient who is admitted or committed to an institution (see N.J.A.C. 10:90-9.1(d)3).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

In (a), rewrote 8.

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

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

Added (a)12.

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

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

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

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

i. Persons who are over 60 years of age;

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

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

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

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

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

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

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

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

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

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

Amended by R.1998 d.42, effective January 20, 1998.
 See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).
 In (a)2ix, added reference to N.J.A.C. 10:90-2.4(a)2ii.
 Special amendment. R.2000 d.392, effective September 1, 2000 (to expire March 1, 2001).
 See: 32 N.J.R. 3615(a).
 In (a)1, deleted a former second sentence.
 Amended by R.2001 d.42, effective December 27, 2000.
 See: 32 N.J.R. 3615(a), 33 N.J.R. 564(a).
 In (a)1, deleted second sentence.
 Amended by R.2003 d.226, effective June 16, 2003.
 See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).
 In (a)1, inserted "cash" following "receiving".
 Amended by R.2004 d.292, effective August 2, 2004.
 See: 36 N.J.R. 1695(a), 36 N.J.R. 3545(a).
 In (a)2x(1), rewrote the first sentence.

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

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

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

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

1. An alien present in the United States prior to August 22, 1996, and who is:
 - i. A lawful permanent resident;
 - ii. A refugee, pursuant to section 207 of the Immigration and Nationality Act;
 - iii. An asylee pursuant to section 208 of the Immigration and Nationality Act;
 - iv. An alien who has had deportation withheld pursuant to section 243(h) of the Immigration and Nationality Act (8 U.S.C. §§ 101 et seq.);
 - v. An alien who has been granted parole for at least one year by the Immigration and Naturalization Service pursuant to section 212(d)(5) of the Immigration and Nationality Act;

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

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

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

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

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

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

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

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

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

ii. The alien's child has been battered or subjected to extreme cruelty in the United States by the spouse or parent of the alien (without the active participation of the alien in the battery or cruelty), or by a member of the spouse or parent's family residing in the same household as the alien when the spouse or parent acquiesced to and the alien did not actively participate in such battery or cruelty; and

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

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

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

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

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

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

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

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

Administrative correction.

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

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

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

Rewrote (b).

10:90-2.11 WFNJ TANF/GA residency requirements

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

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

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

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

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

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

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

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

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

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

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

i. A child who is receiving training at one of the three National Job Corps Centers located in Kentucky, Indiana, and Utah is to be considered permanently absent from the home and shall not be considered a member of the eligible assistance unit for WFNJ eligibility purposes.

(b) Regarding the parent, parent-person, or legal guardian, temporary absence of not more than 30 consecutive days for whatever reason will not affect eligibility provided that adequate care and supervision of the child(ren) has been arranged in advance. When necessary, arrangements will be made by the county agency regarding issuance of the grant.

1. The county agency shall obtain approval from the DFD for continuing eligibility in unusual situations of temporary absence of a parent, parent-person, or legal guardian which lasts more than 30 consecutive days. Unusual situations shall include, but not be limited to, those referenced in N.J.A.C. 10:90-2.13(a).

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

10:90-2.17 Parent-minor provisions

(a) Parent-minors (applicants/recipients who are less than 18 years of age, never married, are the natural parents of the dependent child and are caring for the dependent child) shall be required, as a condition of eligibility for benefits for the applicant or recipient and the applicant's or recipient's dependent child, to:

1. Reside in a home maintained by, and have the benefits paid to, the applicant's or recipient's parent, legal guardian, or other adult relative; and

i. Regularly attend a high school or equivalency program of study; or

ii. Engage in a work activity if the applicant or recipient has completed secondary education.

(b) If living with the parent, legal guardian, or other adult relative is determined unsuitable for the parent-minor because of the good cause reasons listed in (c) below, then the county agency shall refer the parent-minor to an alternate adult-supervised supportive living arrangement.

(c) Good cause for locating an alternative living arrangement for the parent-minor shall exist if, during the application or eligibility process, as appropriate, the county agency determines that the parent, legal guardian or other adult relative with whom the applicant or recipient would otherwise be required to reside in order to be eligible for benefits:

1. Refuses or is unable to allow the applicant/recipient, or that person's dependent child, to reside in that adult's home;

2. Poses a threat to the emotional health or physical safety of the applicant/recipient or that person's dependent child;

3. Has exhibited neglect with respect to the needs of the applicant/ recipient or the applicant/recipient's dependent child, or poses a risk of doing so;

4. Has abused the applicant or recipient, or the applicant's or recipient's dependent child, or poses a risk of doing so; or

5. Allows others to live in the home, for example, siblings of the parent-minor or nonrelated adults, who have abused or neglected the parent-minor or the parent-minor's dependent child (or pose a risk of doing so).

(d) If the parent-minor recipient is at least 17 years of age and has successfully resided in an independent living arrangement prior to February 1, 1997 with no previous incident of homelessness, such parent-minors shall be allowed to continue living in an independent living arrangement subject to the following conditions:

1. The parent-minor shall name a responsible adult as a protective payee;

2. If the parent-minor cannot identify a responsible adult as the protective payee, he or she will have the choice of residing in an alternate adult-supervised living arrangement designated by the DFD or be ineligible for assistance. If at any time during the eligibility period, the parent-minor has not fully cooperated with his or her protective payee, the case manager or the representative of the entity designated by the DFD, he or she will be required to move his or her residence to an alternate adult-supervised living arrangement designated by the DFD or lose eligibility for cash assistance;

3. The parent-minor shall fully cooperate with a series of regular home visitations which will be completed by a representative of the entity designated by the DFD; and

4. The parent-minor must remain enrolled in high school or an approved GED program.

(e) An applicant or recipient shall be exempt from regularly attending high school or an equivalency program of study if, based upon an assessment of the person's ability and aptitude, it is determined that the applicant or recipient lacks a reasonable prospect of being able to successfully complete the academic requirements of a high school or equivalency program of study. The individual shall be required to participate in a State-approved alternative educational or training program authorized by the Department of Human Services.

(f) When a parent-minor(s) and the parent-minor's child are residing with the parent-minor's natural or adoptive parent(s), income deeming rules apply to determining the eligibility of the parent-minor (see N.J.A.C. 10:90-3.16).

(g) When a parent-minor(s) and the parent-minor's child reside with an adult relative other than their natural/adoptive parent(s), or as a separate household, in accordance with (d) above, the parent-minor's natural or adoptive parents shall be subject to the same income deeming provisions noted at N.J.A.C. 10:90-3.16.

(h) When a parent-minor and his or her child(ren) are living in the home of the parent-minor's natural or adoptive parents, relatives who qualify as parent-person(s) of the parent-minor, or legal guardians of the parent-minor and such parent(s), parent-persons, or legal guardians are themselves eligible for cash assistance, the eligible family shall consist of the parent-minor, the parent-minor's child, the parent-minor's parent(s), parent-person(s) or legal guardian(s) and the parent-minor's brothers and sisters (see N.J.A.C. 10:90-2.7).

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

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

In (c), added new 5; and in (h), added references to legal guardians.

10:90-2.18 Family cap provision for WFNJ/TANF

(a) Adult WFNJ/TANF recipient parents shall not be entitled to receive incrementally increased WFNJ cash benefits solely because of the birth of an additional child(ren). Although the family does not receive additional cash assistance, a child(ren) subject to this family cap provision is or are considered a member of the assistance unit for all purposes including, but not limited to, the existing cash assistance benefit, child support, medical assistance and food stamp benefits provided to the assistance unit.

1. Adult recipients who were never previously subject to the family cap provision who then give birth to an additional child(ren) 10 full months or more after the date of their application for assistance shall not receive an increase in their cash assistance benefits due to the birth of such an additional child(ren).

2. Adult recipients who had been subject to the family cap provisions under the prior AFDC program and who have been receiving cash assistance benefits either under the former AFDC program and/or under WFNJ within 10 consecutive calendar months immediately preceding the birth of a child shall not receive an increase in their cash assistance benefits as a result of the birth of such an additional child. This 10 month ineligibility timeframe includes any periods of ineligibility or case closure, either initiated on the part of the recipient or imposed by the county agency, including the post-WFNJ benefit period.

3. The provisions of this section shall not apply to any individual in an assistance unit with dependent children who gives birth to a child in less than 10 months after applying for and receiving WFNJ cash assistance benefits.

4. The provisions of this section shall not apply to the birth of a child that occurs as a result of domestic violence, rape or incest.

i. An affidavit shall be acceptable documentation that a child(ren) was conceived as a result of incidents of domestic violence, rape or incest.

ii. Under no circumstances shall the perpetrator involved in incidents of domestic violence, rape or incest be contacted to verify the victim's claim of good cause for exemption from the family cap provision.

5. Families subject to the family cap provision may earn back an increase in their grant amount if they become employed. In such cases, the following shall apply:

i. The total countable income shall be compared for eligibility purposes to the appropriate assistance unit size including the child who does not receive cash assistance due to the family cap, using Schedule I (maximum allowable income levels) in N.J.A.C. 10:90-3.3;

ii. The disregards as specified in N.J.A.C. 10:90-3.8 shall be applied for the monthly earned income of each employed person in the assistance unit; and

iii. After application of the earned income disregards, the total countable income shall be subtracted from Schedule II (maximum benefit payment levels) at N.J.A.C. 10:90-3.3, from the appropriate benefit payment level for the appropriate assistance unit size, including the child who did not receive cash assistance due to the family cap provisions in (a) above, to determine the assistance payment.

6. Any child subject to the family cap provisions listed in (a) above shall be included in the assistance unit for initial eligibility determination purposes.

7. The 10-month ineligibility timeframe for increased cash assistance due to the birth of an additional child(ren) specified in (a) above shall be binding upon any family for any subsequent reapplications or reopenings of the case and a family shall not be entitled to an increased cash benefit for the birth of any child(ren) until such time as (a)8 below applies.

i. Any child included in the WFNJ assistance unit who subsequently becomes a parent-minor and either remains in the eligible unit of the parent or caretaker relative or resides in an adult-supervised setting, shall be permitted to receive WFNJ cash assistance benefits for that parent-minor's first newborn child only. The 10 month ineligibility timeframe becomes effective for any subsequent children born to the parent-minor.

8. When an adult parent(s) reapplies for WFNJ benefits and no adult member of the assistance unit has been in receipt of WFNJ benefits for a minimum of 12 consecutive months immediately preceding the date of re-application, the family is eligible for a new 10-month grace period from the date of reapplication. In addition, any child(ren) who did not receive cash assistance due to the family cap provisions listed in (a) above shall now be included in the assistance unit for cash assistance purposes.

i. When a WFNJ family becomes ineligible for WFNJ for either of the two reasons cited at (a)8i(1) or (2) below, remains employed for a minimum of 90 days, and subsequently reapplies for WFNJ prior to the expiration of the 12 consecutive month period noted in (a)8 above due to the loss of employment through no fault of their own, any child(ren) previously subject to the family cap in accordance with (a)8 above shall now be included in the assistance unit for cash assistance purposes. Such families, however, are not entitled to a new 10-month grace period and any child(ren) born subsequent to the reapplication shall be subject to the family cap provisions and shall be included in the assistance unit for all purposes except the determination of the cash assistance grant.

(1) Earnings or increased earnings from employment, including earnings from new employment; or

(2) Increased hours of employment.

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

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

In (a)1, substituted "full months" for "months"; added (a)4i to (a)4ii; and in (a)8i, cited (a)8i(1).

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

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

Deleted (a)9.

10:90-2.19 Refusal to cooperate with Quality Assurance reviews

An adult assistance unit member shall be determined ineligible for cash assistance if he or she refuses to cooperate in a State Quality Assurance review. If an adult assistance unit member is deleted for refusal to cooperate, without good cause, with a Quality Assurance review, such an individual shall be removed from the assistance unit until such time as the individual cooperates with the review.

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

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

10:90-2.20 The Commissioner's Pilot Program for Long-Term Welfare Recipients

(a) The Commissioner's Pilot Program for Long-Term Welfare Recipients shall provide intensive case management (ICM) at 48 months for Work First New Jersey (WFNJ) recipients who have complied with WFNJ requirements and have not become self-sufficient and who do not appear to be exemptible from time limits under N.J.A.C. 10:90-2.4, except for those recipients who would meet the definition of "chronically unemployable." Recipients who appear to be chronically unemployable shall receive intensive case management through this pilot program. The goal of the pilot program is to assist pilot program participants to become self-sufficient before they reach the 60-month time limit.

(b) Intensive case management shall be provided for a total period of 24 months. Recipients shall be required to continue

to meet financial and non-financial eligibility requirements for the WFNJ program.

(c) For the duration of the pilot program, new extensions shall not be granted under N.J.A.C. 10:90-2.5. Instead, all individuals who have exhausted 48 months of benefits, and who are not exempt from time limits, may be eligible to receive assistance for a total period of 24 months under the pilot program.

(d) After 48 months of assistance, participation in the pilot program becomes a WFNJ program requirement for eligible recipients and the participant shall begin to receive intensive case management services. As a condition of continued eligibility, participants shall receive and cooperate with individualized and intensive case management, and, if appropriate, substance abuse treatment and mental health services.

(e) Pilot program participants shall cooperate in the development of a new Individual Responsibility Plan (IRP). The IRP shall be updated every six months. See N.J.A.C. 10:90-4.8 regarding the provisions for the IRP.

(f) Failure, without good cause, to begin or continue to participate in an agreed-upon assigned activity, shall be considered as refusal to cooperate without good cause. This action shall result in the sanction procedures and penalties being imposed, as set forth at N.J.A.C. 10:90-4.13 through 4.18.

1. The pilot program shall adhere to all notice and hearing requirements as set forth at N.J.A.C. 10:90-9.

(g) Pilot program participants shall continue to be eligible for WFNJ social and work support services.

(h) Participants shall receive priority treatment by all WFNJ vendors. When referred for an assessment or treatment, a pilot program participant shall be given the first available appointment, and in all cases shall be seen within 30 days.

1. This includes, but is not limited to, referrals for substance abuse assessment and treatment.

(i) Child welfare is a primary component of the pilot program. As a result, a strong link must be established with the Division of Youth and Family Services (DYFS) for families with dual cases. DYFS records shall be consulted for all pilot program participants at the beginning of the ICM period to identify if an open DYFS case exists.

(j) An individual who has exhausted 60 cumulative-months of WFNJ benefits may be eligible for two six-month extensions by participating in the pilot program, unless the individual has already received 24 months of assistance through the Supportive Assistance for Individuals and Families (SAIF) Program.

1. Individuals who have received less than 24 months of assistance through the SAIF Program may be eligible to participate in this pilot program for the remainder of the

24-month period if he or she meets the criteria under this section.

(k) Assistance may be continued after an individual has exhausted 24 cumulative-months in the pilot program only if the individual meets the criteria for an exemption from the WFNJ 60-month time limit at N.J.A.C. 10:90-2.4. Eligibility for continuation of assistance shall be evaluated prior to reaching the 24-month time limit. If the household is ineligible for an exemption, the cash assistance case shall be terminated. Terminations shall require prior approval and authorization by the Division of Family Development.

(l) Prior to terminating the cash assistance case of any pilot program participant with an open DYFS case, the county welfare agency shall refer the family to community-based agencies for services appropriate for their needs. Additionally, the county welfare agency shall notify the Department of Children and Family Services that the participant's cash assistance will be terminated.

New Rule, R.2003 d.340, effective August 18, 2003 (operative October 1, 2003).

See: 35 N.J.R. 1824(a), 35 N.J.R. 3859(b).

Amended by R.2006 d.137, effective April 17, 2006.

See: 37 N.J.R. 4153(a), 38 N.J.R. 1736(a).

In introductory paragraph (a), updated internal reference to include (a)9; added (a)9; in (b), deleted "in increments not to exceed six months" and "up to".

Repeal and New Rule, R.2007 d.224, effective August 6, 2007.

See: 39 N.J.R. 1222(a), 39 N.J.R. 3382(a).

Section was "Work First New Jersey Post 60-Month Pilot Program: Supportive Assistance for Individuals and Families (SAIF) Program".

SUBCHAPTER 3. FINANCIAL ELIGIBILITY— INCOME, RESOURCES, BENEFITS

10:90-3.1 General financial eligibility provisions

(a) Benefits for recipients of WFNJ/TANF and WFNJ/GA shall be determined according to standards of countable income (earned and unearned) and countable resources. These standards shall take into account, for the determination of eligibility and provision of benefits, all income and resources of all persons in an assistance unit of which the applicant or recipient is a member, including any income deemed to the assistance unit members as a result of deeming from parents to adolescent parents and from sponsors to eligible aliens.