

CHAPTER 87

FOOD STAMP MANUAL

Authority

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

Source and Effective Date

R.2004 d.181, effective April 5, 2004.
See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 87, Food Stamp Manual, expires on October 2, 2009. See: 40 N.J.R. 5932(a).

Chapter Historical Note

Chapter 87, Food Stamp Manual, was adopted as R.1969 d.22, effective December 3, 1969. See: 1 N.J.R. 14(a), 1 N.J.R. 30(b).

Chapter 87, Food Stamp Manual, was readopted as R.1972 d.177, effective September 8, 1972. See: 4 N.J.R. 187(a), 4 N.J.R. 239(a).

Chapter 87, Food Stamp Manual, was readopted as R.1975 d.350, effective January 1, 1976. See: 7 N.J.R. 363(b), 7 N.J.R. 567(d).

Chapter 87, Food Stamp Manual, was readopted as 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, Food Stamp Manual, was readopted as R.1984 d.68, effective March 1, 1984. See: 15 N.J.R. 2134(b), 16 N.J.R. 550(a).

Pursuant to Executive Order No. 66(1978), Chapter 87, Food Stamp Manual, was readopted as R.1989 d.121, effective January 27, 1989. See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

Public Notice: Change in standards for food stamp income eligibility. See: 23 N.J.R. 3030(a).

Pursuant to Executive Order No. 66(1978), Chapter 87, Food Stamp Manual, was readopted as R.1994 d.42, effective December 21, 1993. See: 25 N.J.R. 4697(b), 26 N.J.R. 377(a).

Public Notice: Change in standards for food stamp income eligibility, deduction, and coupon allotment standards. See: 29 N.J.R. 4346(a).

Subchapter 13, New Jersey State Food Stamp Program, was adopted as Emergency New Rules by R.1997 d.402, effective August 29, 1997, operative September 1, 1997, to expire October 28, 1997. See: 29 N.J.R. 4191(a). The provisions of R.1997 d.402 were readopted as R.1997 d.505, effective October 28, 1997. See: 29 N.J.R. 4191(a), 29 N.J.R. 5063(b).

Pursuant to Executive Order No. 66(1978), Chapter 87, Food Stamp Manual, was readopted as R.1999 d.6, effective December 8, 1998. See: 30 N.J.R. 3451(a), 31 N.J.R. 69(a).

Chapter 87, Food Stamp Manual, was readopted as R.2004 d.181, effective April 5, 2004. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 13. (RESERVED)

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 benefit 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 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 food stamp allotment, generates food stamp benefits, 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).

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

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

In (c), substituted a reference to food stamps for a reference to coupons, and substituted a reference to benefits for a reference to Authorizations to Participate in the second sentence.

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

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

In (a), substituted "benefit" for "coupon" preceding "issuance outlets".

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 Family Development (DFD) 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 directly 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 DFD deems appropriate.

(c) All informational material shall be available in languages other than English as required by FNS bilingual guidelines (see 7 C.F.R. 272.4(b)) and shall include the following statement: "In accordance with Federal law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, religion, political beliefs, or disability. To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326 W, Whitten Building, 1400 Independence Avenue, S.W., Washington, D.C. 20250-0003 or call (202) 750-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer." Or, if the material is too small to permit the full statement to be included, at a minimum include the following statement, in print size no smaller than the text: "This institution is an equal opportunity provider."

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.

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

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

Substituted references to the Division of Family Development (DFD) for references to the Division of Public Welfare (DPW) throughout; rewrote (c).

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 recertifica-

tion 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 DFD 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.

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

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

In (b) substituted "DFD" for "DPW".

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. DFD 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".

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

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

Substituted "DFD" for "DPW".

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) Specific policy material necessary for an applicant, recipient, and/or his or her 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) 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) Each county legal services office shall be furnished with a copy of this manual.

(e) 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) 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) 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).

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

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

Deleted the introductory phrases throughout.

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 benefits, 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).

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

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

Substituted "benefits" for "coupons" preceding "the conduct of fair hearings".

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) A complaint must be filed no later than 180 days from the date of alleged discrimination, unless the period is extended by USDA.

(c) 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. Name, address and telephone number or other means of contacting the persons alleging discrimination;

2. Location and name of the organization or office and/or person(s) accused of discriminatory practices;

3. The nature of the incident, action, or aspect of the program administration that led to the alleged discrimination;

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

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

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

(e) Written complaints shall be forwarded to the Director of DFD 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 (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).

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

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

Deleted the introductory phrases throughout.

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) 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) 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.

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

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

Deleted the introductory phrases throughout.

10:87-1.14 Confidentiality and disclosure of information

(a) 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, WFNJ/TANF, jointly-processed WFNJ/GA households, SSI, Medicaid, Child Support and Paternity program (CSP), Income Eligibility Verification System (IEVS), Federally-funded child welfare programs, including the Statewide Automated Child Welfare Information System (SACWIS), or with any other Federal or Federally aided, means-tested assistance programs.

1. The verification of immigration documents 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.

2. The New Jersey Department of Labor may access information regarding food stamp recipients for the purpose of administering the Food Stamp Employment and Training Program.

3. Agencies administering a Food Stamp Nutrition Education Plan approved by USDA may access information regarding food stamp recipients for the purpose of administering the Nutrition Education Plan.

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

1. Upon written request, 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 benefits 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.

i. CWAs shall make available, upon request, to any Federal, State, or local law enforcement officer the address, photograph (if available), and Social Security number of a food stamp recipient. The officer must furnish the recipient's name, and must notify the CWA that the recipient is fleeing to avoid prosecution, custody, or confinement for a felony, is violating a condition of parole or probation, or the CWA has information necessary for the officer to conduct an official duty related to a felony or parole violation.

2. 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. 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. If there is a written request by a responsible member of the household, its current 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. 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. 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 8.14(a)).

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

8. 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. Households that provide a food stamp or WFNJ/TANF 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. The CWA shall furnish information to employees of the Comptroller General's Office of the United States for audit examination authorized by any other provision of law.

(c) Recipients of information released under this section must adequately protect the information against unauthorized disclosure to persons or for purposes not specified in this section. In addition, information received through the IEVS must be protected from unauthorized disclosure as required by regulations established by the information provider. Information released to the State agency pursuant to section 6103(I) of the Internal Revenue Code of 1954 shall be subject to the safeguards established by the Secretary of the Treasury in section 6103(I) of the Internal Revenue Code and implemented by the Internal Revenue Service in its publication, Tax Information and Security Guidelines.

(d) Participants in the New Jersey Address Confidentiality Program (ACP) established by P.L. 1997, c.369 to safeguard the identity and residence of victims of domestic violence shall be treated in the disposition of their Food Stamp case records as follows:

1. Only residents of New Jersey are eligible to participate in the ACP. A photocopy of the individual's signed ACP participation card shall be retained in the individual's case record, and shall serve as documentation of the ACP participant's identity and residence.

2. CWAs shall not include in the case record any information which identifies the ACP participant's residence,

including mortgage/rent, utility, and tax or insurance bills or receipts. The Department of Community Affairs (DCA) will act as a liaison on behalf of the individual, and will provide the CWA with written information that documents the requested expenses that the ACP participant is incurring.

3. The address utilized for the ACP participant to receive mail is essentially a "mail drop." Therefore, when sending a notice to an ACP participant, the CWA shall allow an additional five days for the recipient to take action. However, this does not apply to a Families First EBT aging notice, which shall remain at 10 days.

4. In the event that Federal, State, or local agency staff must speak directly with the ACP participant, the Request for Contact procedures at N.J.A.C. 10:87-9.5 shall be followed.

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.

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

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

Rewrote (a); and in (b)1, added I.

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

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

In (a) and (b)9, substituted references to WFNJ/TANF for references to AFDC; and in (a), inserted a reference to Federally-funded child welfare programs, including the Statewide Automated Child Welfare Information System (SACWIS).

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

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

Deleted the introductory phrases throughout; in (b), substituted "benefits" for "coupons" in 1 and amended the N.J.A.C. reference in 5; added (c) and (d).

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) 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 benefits 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.

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

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

In (b), substituted a reference to benefits for a reference to coupons.

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

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

In (b), deleted the introductory phrase.

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. An individual living with others, but who customarily purchases food and prepares meals for home consumption separate and apart from the others;
3. A group of individuals living together for whom food is purchased in common and for whom meals are prepared together for home consumption;
4. 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 at N.J.A.C. 10:87-2.34 and verification requirements at N.J.A.C. 10:87-2.19(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 at 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. 10:87-2.19(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) and (b). 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 and their natural, adopted, or stepchildren (excluding foster children) under the age of 22 who reside together, regardless of the marital status or having a child of their own;

2. A child (other than a foster child) under 18 years of age who lives with and is under parental control of a household member other than his or her parent. A child shall be considered to be under parental control for purposes of this provision if he or she is financially or otherwise dependent on a member of the household.

i. An individual between the ages of 18 and 22, who is under parental control of a household member other than his or her natural, adoptive, or stepparent, and is financially or otherwise dependent on a member of the household shall be included as a member of that Food Stamp household.

ii. An individual between the ages of 18 and 22, not living with his or her natural, adoptive, or stepparent, who is married and/or has a child of his or her own, and is not financially dependent on a member of the household, and prepares and eats his or her meals separate and apart from other members residing in the household, may, for Food Stamp purposes, be considered a separate household.

iii. An individual, including individuals under 18 years old, emancipated from any parental control, living solely with his or her spouse and/or children, for Food Stamp purposes, shall be considered a separate 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. Individuals who purchase and prepare meals together, with the following exceptions:

i. A household containing an elderly and disabled member who cannot purchase and prepare meals sepa-

ately can be separated from the other household members, provided that the income of the other members does not exceed 165 percent of the Federal poverty level for the household size of the other members, per N.J.A.C. 10:87-2.2(a)4. (See N.J.A.C. 10:87-12.7 Table VII.)

ii. Foster individuals (N.J.A.C. 10:87-2.3(b)6) cannot be required to be included in the household if the household decides otherwise.

(d) In cases of joint child custody, either parent may claim a child(ren) as a member of their food stamp household, as long as the child(ren) resides in the home for some portion of the month. In the event that both parents are participating in the Food Stamp Program and both want to claim the child(ren) as a part of his or her household, the parent who has the child(ren) the greater part of the time shall be the parent to claim the child(ren) as a part of his or her food stamp household.

1. If the child(ren) lives with each parent equally, the parent household that applies first shall be the one to add the child(ren) to his or her food stamp household.

2. Under no circumstances shall duplicate participation occur. The child(ren) cannot be a part of two food stamp households at the same time.

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).

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

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

Rewrote (c).

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

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

Deleted the introductory phrases throughout; in (a), amended the N.J.A.C. references in the first sentence of 4 and the second sentence of 5; in (c), added the third sentence.

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

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

In (c)1, inserted "regardless of the marital status or having a child of their own"; deleted former (c)2 and added new (c)2; in (c)4, inserted "with the following exceptions" and substituted a colon for the period at the end; and added (d).

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) 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. Individuals to whom a household furnishes lodging, but not meals, for compensation, otherwise known as roomers;

ii. Individuals who reside in a household to provide medical, housekeeping, child care or other similar personal services, otherwise known as live-in-attendants; and

iii. Other individuals who share living quarters with 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. Persons enrolled in an institution of post-secondary education who are ineligible because they fail to meet the eligibility criteria at N.J.A.C. 10:87-5.9(a)12.

(b) 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. 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. 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 at N.J.A.C. 10:87-2.2(c).

3. 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 distinguishable 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 benefit allotment (MBA) 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 MBA for the appropriate size of the boarder household.

4. 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. 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 individuals cannot be required to be included in the household with whom they reside. The household has the option of including foster individuals in the household, but if it elects not to do so, then the foster individuals shall be treated as boarders. Likewise, children who are placed in a household under a guardianship arrangement shall be treated in a manner similar to foster children and adults. That is, the household has the option of including the individual under guardian care in the household for food stamp purposes, or excluding the individual from the household. Any payment which the household receives for the care of the individual under guardianship care shall be either included in household income, if the household elects to include the individual in the food stamp household, or excluded from household income if the household decides to exclude the individual from the household.

(c) The following individuals residing with a household shall be excluded from the household when determining the household's size for the purposes of assigning a benefit level to the household or of comparing the household's monthly income with the income eligibility standards. However, the

(g) The household may voluntarily withdraw its application at any time prior to the determination of eligibility. The CWA shall document in the case record the reason for withdrawal, if any was stated by the household, and that contact was made with the household to confirm the withdrawal. The household shall be advised of its right to reapply at any time subsequent to the withdrawal.

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

(c)2: Added second to last sentence; added "that same day" to previous sentence; made minor language changes.

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

(b)3 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).

Date of application for applicants who are institutionalized is now the same as date of release from institution.

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

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

Rewrote the section.

Case Notes

Failure of CWA to provide Food Stamp application where requested.
J.S. v. Essex County Division of Welfare, 1 N.J.A.R. 432, (1979).

10:87-2.14 Household cooperation

To determine eligibility for program benefits, the application must be completed and signed, the household (or its authorized representative) interviewed, and certain information (see N.J.A.C. 10:87-2.19 and 2.20) must be verified. If the household refuses to cooperate with the CWA in completing this process, by refusing to be interviewed, not merely missing an appointment, the application shall be denied at the time of refusal.

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).

Added reference to N.J.A.C. 10:87-2.20.

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

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

Amended N.J.A.C. references in the first sentence and inserted "by refusing to be interviewed, not merely missing an appointment," preceding "the application shall be denied" in the second sentence.

Case Notes

Cited in support of holding that burden of proof of parentage to establish eligibility lies with aid applicant by preponderance of believable evidence. A.H. v. Bergen Cty. Welfare Bd., 4 N.J.A.R. 52 (1981).

Termination of Food Stamp Program participation due to inability to reconcile income and household size reported to household with case record; termination reversed due to ready availability of income information and agency responsibility to establish household size from information provided by household. Burlington Cty. Welfare Bd. v. H.R., 3 N.J.A.R. 363 (1980).

Denial of benefits for failure to cooperate proper where applicant refused to disclose sum of injury claim proceeds held in escrow by attorney. M.R. v. Camden Cty. Welfare Bd., 1 N.J.A.R. 94 (1979).

10:87-2.15 Denial of eligibility for non-cooperation

For a determination of refusal to be made by the CWA, the household must be able to cooperate but clearly demonstrate that it will not take actions that it can take, to do what is required to complete the application process. For example, to be denied for refusal to cooperate, a household must refuse to be interviewed, not merely fail to appear for the interview. If there is any question as to whether the household has merely failed to cooperate as opposed to refused to cooperate, the household shall not be denied.

Case Notes

Denial of benefits for failure to cooperate proper where applicant refused to disclose sum of injury claim proceeds held in escrow by attorney. M.R. v. Camden Cty. Welfare Bd., 1 N.J.A.R. 94 (1979).

10:87-2.16 Subsequent refusal to cooperate

The household shall also be determined ineligible if it refuses to cooperate in any subsequent review of its eligibility, including reviews generated by reported changes and applications for recertification. Once denied or terminated for refusal to cooperate, the household may reapply but shall not be determined eligible until it cooperates.

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).

Section substantially amended.

Case Notes

Cited in support of holding that burden of proof of parentage to establish eligibility lies with aid applicant by preponderance of believable evidence. A.H. v. Bergen Cty. Welfare Bd., 4 N.J.A.R. 52 (1981).

10:87-2.17 Refusal to cooperate with Quality Control reviews

(a) The household shall be determined ineligible if it refuses to cooperate in a State or Federal Quality Control review. If a household is terminated for refusal to cooperate with a quality control reviewer, the household may reapply but shall not be determined eligible until one of the following conditions is met:

1. The household cooperates with the reviewer; or
2. If a household that was terminated for refusal to cooperate with a State quality control reviewer reapplies after 95 days from the end of the annual review period, the household shall not be denied for its failure to cooperate with a State quality control reviewer during the completed review period, but must provide verification prior to certification, in accordance with N.J.A.C. 10:87-2.19(k). The annual review period ends on September 30 of each year.
3. If a household that was terminated for refusal to cooperate with a Federal quality control reviewer reapplies after seven months from the end of the annual review period, the household shall not be determined ineligible for its refusal to cooperate with a Federal

quality control reviewer during the completed review period, but must provide verification in accordance with N.J.A.C. 10:87-2.19(k) prior to certification. The annual review period ends on September 30 of each year.

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.

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

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

Added (c).

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

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

Revised rule to conform with Federal regulations, specifying household's responsibility to comply with Quality Control reviews.

Deleted prior (a)2 and (b)-(c), and added new (a)2 and (a)3.

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

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

In (a), amended N.J.A.C. references throughout.

10:87-2.18 Interview process

(a) Except for households certified for longer than 12 months or those with hardship conditions who are interviewed by phone or by home visit, all applicant households (including those submitting applications by mail, data-fax or electronically) shall have a face-to-face interview with a qualified eligibility worker, prior to initial certification and all recertifications. Additionally, a face-to-face interview shall be provided to any household that requests one. All interviews for food stamp benefits shall meet the requirements below.

(b) The individual interviewed may be the head of household, spouse, any other responsible member of the household or an authorized representative. An applicant may bring any person he or she chooses to the interview. To the extent practicable, the CWA shall schedule the interview to accommodate the needs of groups with special circumstances, including working households.

(c) The interviewer shall not simply review the information which appears on the application but shall explore and resolve with the household any unclear and incomplete information. Households shall be advised of their rights and responsibilities during the interview, including an explanation of the processing standards and the household's responsibility to report changes.

1. The interviewer shall explain to the applicant the work registration and employment and training requirements and the consequences of a household member quitting his or her job or reducing wages or hours of work without good cause (see N.J.A.C. 10:87-10.6).

(d) The interview shall be conducted as an official and confidential discussion of household circumstances. The applicant's right to privacy shall be protected during the interview. Facilities shall be of adequate size and layout to preserve the privacy and confidentiality of the interview.

(e) The office interview shall be waived for any household which is unable to appoint an authorized representative (see N.J.A.C. 10:87-2.7) and which has no household members able to come to the food stamp office because they are elderly or disabled, as defined at N.J.A.C. 10:87-2.34. The CWA shall waive the office interview on a case by case basis for any household which reports it is unable to appoint an authorized representative and has no members able to come to the Food Stamp office because of transportation difficulties or similar hardships.

1. Hardship conditions include but are not limited to: illness, care of a household member, hardships due to residency in a rural area, prolonged severe weather, or work hours which preclude an in-office certification. If a waiver is granted, the CWA shall document the reason for the determination in the case record.

2. The CWA has the option of conducting a telephone interview or a home visit for those households for whom the office interview is waived. Home visits shall be made only if the date and time of the interview is scheduled in advance at a mutually acceptable location with the household.

3. Waiver of the face-to-face interview does not exempt the household from the verification requirements, although special procedures may be used to permit the household to provide verification and thus obtain its benefits in a timely manner, such as substituting a collateral contact in cases where documentary evidence would normally be provided.

4. Waiver of the face-to-face interview shall not affect the length of the household's certification period.

(f) For households that are not interviewed on the day they submit their applications, the CWA shall schedule all interviews as promptly as possible in order to ensure that eligible households receive an opportunity to participate within 30 days after the application is filed. Initial applicants and recipients applying for recertification who cannot obtain certification services without missing time from work must be given appointments for such services. While appointments outside normal business hours are not required, CWAs are encouraged to offer them.

1. If a household fails to appear for the first interview, the CWA shall initiate action to schedule another interview. The interview shall be rescheduled without requiring the household to provide good cause for failing to appear. The CWA shall notify each household that misses its interview appointment that it missed the scheduled appointment and that the household is responsible for rescheduling the missed interview. The CWA shall reschedule if requested by the household. However, if the household does not appear for the rescheduled interview, the CWA need not initiate action to schedule any further interviews unless the household requests that another interview be scheduled. Additionally, a denial of benefits cannot take place prior to the 30th day after the filing of an application based on the fact that an appointment has been missed.

(g) For SSI jointly processed households as defined at N.J.A.C. 10:87-2.12(a)3, the SSA/DO shall conduct a single interview for both food stamp benefits 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 stamp benefits.

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

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

Section was Interviews.

Recodified from N.J.A.C. 10:87-2.19 and amended by R.2004 d.181, effective May 17, 2004.

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

Rewrote the section.

10:87-2.19 Mandatory verification

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

(b) 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) The CWA shall verify the eligibility status of applicant aliens. 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. Per 7 C.F.R. 273.2(f)(1)(ii), the Department of Justice (DOJ) Interim Guidance On Verification of Citizenship, Qualified Alien Status and Eligibility Under Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Interim Guidance) (62 FR 61344, November 17, 1997) contains information on acceptable documents and Bureau of Citizenship and Immigration Services (BCIS) codes. The CWA shall use the Interim Guidelines until DOJ publishes a final rule on this issue. Thereafter, the CWA should consult both the Interim Guidance and the DOJ final rule. Where the Interim Guidance and the DOJ final rule conflict, the latter should control the verification of alien eligibility.

2. The following information may also be relevant to the eligibility of some aliens: date of admission or date status was granted; military connection; battered status; if the alien was lawfully residing in the United States on August 22, 1996; membership in certain Indian tribes; if the person was age 65 or older on August 22, 1996; if a lawful permanent resident can be credited with 40 qualifying quarters of covered work and if any Federal means tested public benefits were received in any quarter after December 31, 1996; or if the alien was a member of certain Hmong or Highland Laotian tribes during a certain period of time or is a spouse or unmarried dependent of such a person. The CWA shall also verify these factors if applicable to the alien's eligibility.

3. The SSA Quarters of Coverage History System (QCHS) is available for purposes of verifying whether a lawful permanent resident has earned or can receive credit for a total of 40 qualifying quarters. However, the QCHS may not show all qualifying quarters. For instance, SSA records do not show current year earnings and in some cases the last year's earnings, depending upon the time of request. Also, in some cases, an applicant may have work from uncovered employment that is not documented by SSA, but is countable toward the 40 quarters test. In both of these cases, the individual, rather than SSA, would need to provide the evidence needed to verify the quarters.

4. An alien is ineligible until acceptable documentation is provided, unless:

i. The CWA has submitted a copy of a document provided by the household to BCIS for verification. Pending such verification, the CWA cannot delay, deny, reduce or terminate the individual's eligibility for benefits on the basis of the immigration status;

ii. The applicant or the CWA has submitted a request to SSA for information regarding the number of quarters of work that can be credited to the individual, SSA has responded that the individual has fewer than 40 quarters, and the individual provides documentation from SSA that SSA is conducting an investigation to determine if more quarters can be credited. If SSA indicates that the number of qualifying quarters that can be credited is under investigation, the CWA shall certify the individual pending the results of the investigation for up to six months from the date of the original determination of insufficient quarters; or

iii. The applicant or the CWA has submitted a request to a Federal agency for verification of information which bears on the individual's eligible alien status. The CWA shall certify the individual pending the results of the investigation for up to six months from the date of the original request for verification.

5. The CWA shall provide alien applicants with a reasonable opportunity to submit acceptable documentation of their eligible alien status by the 30th day following the date of application. A reasonable opportunity shall be at least 10 days from the date of the CWA's request for an acceptable document. When the CWA fails to provide an alien applicant with a reasonable opportunity as of the 30th day following the date of application, the CWA shall provide the household with benefits no later than 30 days following the date of application, provided the household is otherwise eligible.

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

7. Aliens in the categories specified at N.J.A.C. 10:87-3.8(a)8 through 11 shall present a BCIS Form I-94, "Arrival-Departure Record." The CWA shall accept the BCIS 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. A BCIS 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 BCIS which indicates the alien is eligible.

ii. If the BCIS Form I-94 does not bear any acceptable annotations and the alien has no other verification of alien classification 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 BCIS. The CWA shall accept this form when presented by the alien and properly annotated at the bottom by a BCIS 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 BCIS or otherwise obtain the necessary verification. If the alien so wishes and signs a written consent, the CWA will contact BCIS to obtain clarification of the alien's status.

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

9. If the proper BCIS 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 BCIS 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.

10. While awaiting acceptable verification, the alien whose status is questionable shall be ineligible. If the alien does not wish to contact BCIS or give permission for the CWA to contact BCIS, 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 at N.J.A.C. 10:87-7.7(a) and shall be considered available in determining the eligibility of any remaining household members.

11. 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 BCIS office. CWAs must make 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 determined by the BCIS to be illegal aliens shall be reported to BCIS by the CWAs.

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

(d) The CWA shall verify that the household incurs utility expenses that would qualify them for the appropriate utility standard. Households that qualify for a standard shall use the standard and cannot claim actual expenses. Households that are not entitled to either standard shall verify their actual expenses or sign the waiver. For households entitled to receive the Heating and Cooling Standard Utility Allowance (HCSUA) because they incur a cooling cost, a simple declaration on the application that the household is incurring such a cooling cost shall be sufficient.

1. 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 (as defined at N.J.A.C. 10:87-2.20(c)1).

(e) The amount of any medical expense (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.

the household shall have the opportunity to reapply. 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) 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. 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) The following procedures apply as appropriate when a delay occurs in the second 30-day period.

1. 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. 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. 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. 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 (g)1i above shall be used to determine entitlement for retroactive benefits.

3. 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).

Recodified from N.J.A.C. 10:87-2.31 and amended by R.2004 d.181, effective May 17, 2004.

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

Rewrote the section. Former N.J.A.C. 10:87-2.27 repealed.

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).

10:87-2.28 Expedited service

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

1. Households with less than \$150.00 in monthly gross income, as computed at N.J.A.C. 10:87-6.16 provided that the household's liquid resources (for example, cash on hand, checking or savings accounts, savings certificates and lump sum payments as described at 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; and

3. Eligible households whose combined monthly gross income and liquid resources are less than the household's monthly rent or mortgage and utilities. When the CWA is determining the household's utility expenses for this purpose, it shall utilize the appropriate utility allowance as set forth at N.J.A.C. 10:87-5.10(a)7iv, unless the household is able to claim actual utility expenses.

(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).

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

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

In (a), deleted a former 3, and recodified former 4 as 3 and added a second sentence.

Recodified from N.J.A.C. 10:87-2.32 and amended by R.2004 d.181, effective May 17, 2004.

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

In (a)1, amended N.J.A.C. references throughout. Former N.J.A.C. 10:87-2.28, Verification subsequent to initial certification, recodified to N.J.A.C. 10:87-2.24.

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

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

In (a)3, substituted "appropriate utility allowance as set forth at N.J.A.C. 10:87-5.10(a)7iv" for "Standard or Heating Utility Allowance at N.J.A.C. 10:87-5.10(a), as appropriate", and "is able" for "elects".

10:87-2.29 Expedited service processing standards

(a) For households entitled to expedited service, the CWA shall make available to the recipient a food stamp benefit not later than the seventh 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 seven calendar days following the date of the resident's release from the institution.

(b) For residents of substance abuse treatment and rehabilitation centers and residents of group living arrangements (see N.J.A.C. 10:87-7.8(b)3 and 7.9(c)3) who are entitled to expedited service, the CWA shall make a benefit available to the recipient no later than the seventh calendar day following the date an application was filed.

(c) If a household is entitled to expedited service and is also entitled to a waiver of office interview (see N.J.A.C. 10:87-2.18(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. 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 ap-

plication 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) 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.

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

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

In (a), substituted references to seven calendar days for references to five calendar days throughout, substituted a reference to food stamp benefits for a reference to ATP cards in the first sentence, and added "If an ATP is being issued," at the beginning of the last sentence.

Recodified from N.J.A.C. 10:87-2.33 and amended by R.2004 d.181, effective May 17, 2004.

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

Rewrote the section. Former N.J.A.C. 10:87-2.29, Denial of the application, recodified to N.J.A.C. 10:87-2.25.

10:87-2.30 Special procedures for expediting service

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

1. 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) 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 had no income), liquid re-

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

In (a)5: added text "filed jointly ... purposes" regarding applications. Amended by R.1999 d.6, effective January 4, 1999.

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

In (a), substituted references to WFNJ/TANF for references to AFDC throughout.

Recodified from N.J.A.C. 10:87-2.35 and amended by R.2004 d.181, effective May 17, 2004.

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

Deleted the introductory phrases throughout; in (a)2, amended the N.J.A.C. reference. Former N.J.A.C. 10:87-2.31, Delays in processing, recodified to N.J.A.C. 10:87-2.27.

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

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

In (a)2, inserted "income and considered as".

10:87-2.32 Categorically eligible WFNJ/TANF/SSI households

(a) Any household, except those listed in (c) below, in which all members are authorized to receive WFNJ/TANF/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 stamp benefits. This includes the following households: those in which all members receive or are authorized to receive cash through a public assistance program funded in full or in part with Federal Title IV-A or New Jersey State money counted as Maintenance of Effort (MOE) purposes; those in which all members receive or are authorized to receive non-cash or in-kind benefits, funded with more than 50 percent State money counted as MOE or Federal money under Title IV-A designed to forward purposes one and two of the TANF block grant; and those in which all members receive or are authorized to receive non-cash or in-kind benefits, funded with more than 50 percent State money designed to forward purposes three and four of the TANF block grant, and requires participants to have a gross monthly income at or below 200 percent of the Federal poverty level.

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 WFNJ/TANF/SSI, but, is not receiving a money payment, chooses not to receive a money payment, or, is not currently entitled to a money payment.

3. Categorically eligible recipients shall include those persons determined eligible to receive WFNJ/TANF/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 WFNJ/TANF recipients whose benefits are less than \$10.00 and are therefore not payable.

4. A household containing a member who is suspended from SSI for noncompliance with substance abuse treatment requirements shall not be categorically eligible for food stamp benefits. The household's food stamp eligibility would be calculated without including any SSI benefit as income for the suspended individual. (SSI installments are not issued during the suspension period.) The household cannot be considered categorically eligible as SSI recipients again until that individual either ends his or her suspension, resumes receipt of SSI, or leaves the household.

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

1. An ineligible alien as defined at N.J.A.C. 10:87-3.9;
2. An ineligible student as defined at N.J.A.C. 10:87-2.3(a)2;
3. Institutionalized in a non-exempt facility (see N.J.A.C. 10:87-2.4);
4. Ineligible because of failure to comply with a work requirement of N.J.A.C. 10:87-10.1; or
5. 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. 10:87-7.7.

(c) No household shall be considered categorically eligible for food stamp benefits if any member of that household is disqualified for the following reasons:

1. An intentional program violation (see N.J.A.C. 10:87-11.1 et seq.);
2. Ineligible under N.J.A.C. 10:87-3.18 by virtue of a conviction for a drug related felony; or
3. 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 at N.J.A.C. 10:87-2.19 and 2.20 because of WFNJ/TANF/SSI status are the following:

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. 10:87-2.20, that the household which is considered categorically eligible contains the following:

1. Meets the definition of a household in accordance with N.J.A.C. 10:87-2.2;

2. Includes all persons who purchase and prepare food together in one food stamp household regardless of whether or not they are separate units for WFNJ/TANF or SSI purposes; and

3. Includes no person disqualified as specified in (c) above (see also N.J.A.C. 10:87-10.1 and 10:87-11.2).

(f) The exemptions concerning work registration in the food stamp employment and training program shall be applied to individuals in categorically eligible households. Individuals(s) not exempt from work registration shall be subject to work requirements contained at N.J.A.C. 10:87-10.1.

(g) Households in which all members are applying for WFNJ/TANF/SSI shall be allowed to apply for food stamp benefits at the same time they apply for WFNJ/TANF/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 WFNJ/TANF/SSI status, shall be certified in accordance with the notice, procedural and timeliness requirements at N.J.A.C. 10:87-2.25 through 2.33. The otherwise eligible household is not subject to the processing requirement of any other assistance program as a condition of food stamp program eligibility.

(h) Households applying for both WFNJ/TANF and food stamp benefits shall complete a joint application for both programs. The joint application shall clearly indicate those particular questions which need to be answered relevant to the food stamp program and that the household is subject to the criminal penalties of both programs for making false statements.

(i) For households applying for both WFNJ/TANF cash assistance and food stamp benefits, the verification procedures described at N.J.A.C. 10:87-2.19 and 2.20 shall be followed for those factors of eligibility which are needed solely for purposes of determining the household's eligibility for food stamp benefits. For those factors of eligibility which are needed to determine both WFNJ/TANF cash assistance eligibility and food stamp benefit eligibility, the CWA may use the WFNJ/TANF cash assistance 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 WFNJ/TANF verification rules.

(j) In order to determine if a household will be eligible due to its status as a recipient WFNJ/TANF/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 WFNJ/TANF/SSI benefits.

1. Once the WFNJ/TANF/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 WFNJ/TANF/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 WFNJ/TANF/SSI payments intended to retroactively cover a previous month shall be disregarded as lump sum payments.

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

(k) The CWA is not required to send a notice of adverse action if the receipt of the WFNJ/TANF/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.

(l) 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.

(m) For a household filing a joint application for food stamp and WFNJ/TANF/SSI benefits, or a household that has an WFNJ/TANF/SSI application pending and is denied food stamp benefits, but is later determined eligible to receive WFNJ/TANF/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 WFNJ/TANF/SSI benefits prior to their release from the public institution. Benefits shall be paid from the beginning of the period for which WFNJ/TANF/SSI benefits are paid or the original food stamp application date, 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.

(n) Any household determined WFNJ/TANF/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. 10:87-2.26. Benefits shall be prorated in accordance with current procedures at N.J.A.C. 10:87-12.5. However, no food stamp benefits shall be paid for a month in which such household is ineligible for receipt of WFNJ/TANF/SSI benefits, unless the household is eligible as an NPA case.

(o) Households that file joint applications that are found categorically eligible after being denied NPA food stamp benefits shall have their allotment 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.

(p) 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 WFNJ/TANF and/or SSI eligibility. The household shall be informed on the notice of denial to notify the CWA if its WFNJ/TANF or SSI benefits are approved. Households who file joint applications for food stamp and WFNJ/TANF/SSI benefits 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.

(q) 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.

(r) Households whose WFNJ/TANF/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 WFNJ/TANF/SSI determination.

(s) Categorical eligibility shall be assumed at recertification in the absence of a timely WFNJ/TANF redetermination. If a recertified household is subsequently terminated from WFNJ/TANF benefits, the procedures at N.J.A.C. 10:87-2.35 or 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).

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

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

In (a), substituted a reference to WFNJ for a reference to AFDC in the introductory paragraph, and added 5.

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

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

Substituted references to WFNJ/TANF for references to AFDC throughout; in (a), rewrote 4; and in (c), deleted a former 2, and recodified former 3 and 4 as 2 and 3.

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).

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

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

In (a), deleted a former 3, and recodified former 4 as 3 and added a second sentence.

Recodified from N.J.A.C. 10:87-2.36 and amended by R.2004 d.181, effective May 17, 2004.

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

Rewrote the section. Former N.J.A.C. 10:87-2.32, Expedited service, recodified to N.J.A.C. 10:87-2.28.

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

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

In (a), substituted "food stamp benefits" for "food stamps", and deleted "Not included are:" from the end; in (a)2, inserted quotation marks around "Authorized to receive", substituted " , but, is not receiving a money payment, chooses not to receive a money payment," for "but has not yet received", and deleted the comma following "entitled to"; in (a)4, substituted "food stamp benefits" for "food stamps"; in (b)2, deleted "or" from the end; added new (b)4; recodified existing (b)4 as (b)5; rewrote (c)2; in (h), substituted "food stamp benefits" for "food stamps"; in (i), substituted "food stamp benefits" for "food stamps" twice, and inserted "benefit" preceding "eligibility"; in (m), substituted "food stamp" for "food stamps" following "joint application for" and "food stamp benefits" for "food stamps"; in (o), substituted "food stamp benefits" for "food stamps", and substituted "allotment" for "benefits"; and in (p), substituted "food stamp" for "food stamps" following "joint application for", and inserted "benefits".

10:87-2.33 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) The Social Security Administration District Office (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-901 (application forms) received from households eligible for SSI joint processing and forward them within one working day to the appropriate CWA. Along with the FSP-901 (application forms), 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. 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-901 (application form) 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(d)1). 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. 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. The household may take the application from the SSA/DO to 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 institution, 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 at N.J.A.C. 10:87-2.26 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 seventh 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) 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) 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.

(e) The CWA shall ensure that information required at N.J.A.C. 10:87-2.19, 2.20, and 2.21 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. 10:87-2.21).

(f) Households identified as categorically eligible where all members of the household receive SSI and where such households require expedited service shall be handled in accordance with the provisions at N.J.A.C. 10:87-2.30.

(g) 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).

Amended by R.1999 d.6, effective January 4, 1999.
See: 30 N.J.R. 3451(a), 31 N.J.R. 69(a).

In (b), substituted references to FSP 901 for references to FSP 901A in the introductory paragraph and 1.

Recodified from N.J.A.C. 10:87-2.37 and amended by R.2004 d.181, effective May 17, 2004.

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

Rewrote the section. Former N.J.A.C. 10:87-2.33, Expedited service processing standards, recodified to N.J.A.C. 10:87-2.29.

10:87-2.34 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;

4. Receives federally or State-administered supplemental benefits under section 212(a) of P.L. 93-66;

5. Receives disability retirement benefits from a governmental agency because of a disability considered permanent under section 221(i) of the Social Security Act;

6. Is a veteran with service-connected or non-service-connected disability rated by the Veteran's Administration (VA) as total or paid as total by the VA under Title 38 of the United States Code;

7. Is a veteran considered by the VA to be in need of regular aid and attendance or permanently housebound under Title 38 of the United States Code;

8. Is a surviving spouse of a veteran and considered by the DVA to be in need of regular aid and attendance or permanently housebound or a surviving child of a veteran and considered by the VA to be permanently incapable of self-support under Title 38 of the United States Code;

9. Is a surviving spouse or surviving child of a veteran and considered by the VA to be entitled to compensation for a service-connected death or pension benefits for a non-service-connected death under Title 38 of the United States Code and has a disability considered permanent under section 221(i) of the Social Security Act. "Entitled" as used in this definition refers to those veterans' surviving spouses and surviving children who are receiving the compensation or pension benefits stated or have been approved for such payments, but are not yet receiving them;

10. Receives an annuity payment under section 2(a)(1)(iv) of the Railroad Retirement Act of 1974 and is determined to be eligible to receive Medicare by the Railroad Retirement Board; or section 2(a)(1)(v) of the Railroad Retirement Act of 1974 and is determined to be disabled, based upon the criteria used under Title XVI of the Social Security Act; or

11. Receives medical assistance benefits as a disabled individual under:

- i. Medicaid Only (Aged, Blind, and Disabled);
- ii. AIDS Community Care Alternatives Program;
- iii. Community Care Program for the Elderly and Disabled;
- iv. Model Waivers I, II, or III (Medicaid Community/Home Care Waivers);
- v. Home Care Expansion Program;
- vi. Medically-Needy Program; or
- vii. New Jersey Care Program.

R.1983 d.72, eff. February 28, 1983.
See: 15 N.J.R. 247(a), 15 N.J.R. 444(a).

Originally filed as an emergency adoption (R.1983 d.38) on February 22, 1983. Readopted as R.1983 d.72.

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).

Deleted "Licenses" and substituted "Is certified for".

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.

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 and added new (a)11.

Recodified from N.J.A.C. 10:87-2.38 and amended by R.2004 d.181, effective May 17, 2004.

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

Former N.J.A.C. 10:87-2.34, Special procedures for expediting service, recodified to N.J.A.C. 10:87-2.30.

10:87-2.35 Categorically eligible WFNJ/GA households

(a) Any household, except those listed in (c) below, in which all members are authorized to receive WFNJ/GA benefits shall be considered categorically eligible for the Food Stamp Program. Households comprised entirely of those recipients, as specified at N.J.A.C. 10:87-2.32, shall be categorically eligible for food stamp benefits.

(b) No individual shall be included as a member of an otherwise categorically eligible WFNJ/GA household if that individual is:

1. An ineligible alien, as defined at N.J.A.C. 10:87-3.9;
2. A student that does not meet the criteria at N.J.A.C. 10:87-3.14;
3. Disqualified for failure to provide or apply for a Social Security Number, as required by N.J.A.C. 10:87-3.15;
4. Disqualified for failure to comply with a work registration requirement;
5. Disqualified for Intentional Program Violation; or
6. A resident of a non-exempt institution.

(c) A household shall not be considered as WFNJ/GA categorically eligible if:

1. It refuses to cooperate in providing information to the CWA which is necessary for making a determination of its eligibility or for completing any subsequent review of its eligibility;
2. The household is ineligible under the striker provisions; or
3. The household is ineligible because it knowingly transferred resources for the purpose of qualifying or attempting to qualify for the Food Stamp Program.

(d) In determining whether a household is categorically eligible, the CWA shall verify that each member receives WFNJ/TANF, SSI, or WFNJ/GA benefits, and that it includes no individuals who have been disqualified as described at (b) above. The CWA shall also verify household composition if it

is questionable in order to determine that the household meets the definition of a household at N.J.A.C. 10:87-2.2.

(e) When determining the eligibility of a WFNJ/GA categorically eligible household, all Food Stamp Program requirements shall apply except the following:

1. None of the provisions at N.J.A.C. 10:87-4, Financial Eligibility: Resources, apply to categorically eligible households, with the exception of N.J.A.C. 10:87-4.1(b) (categorical eligible provision) and 4.14 through 4.19 (transfer of resources). The provision at N.J.A.C. 10:87-6.8 shall not be applied to categorically eligible households;

2. With the exception of N.J.A.C. 10:87-5.1(b), none of the provisions of N.J.A.C. 10:87-5.1 (gross and net income limits) apply to categorically eligible households;

3. The CWA shall deny the application of a household which is otherwise program eligible, but is entitled to no benefit because its net income results in a calculation of zero benefit; and

4. Sponsored alien information, which otherwise is required at N.J.A.C. 10:87-2.19(c) and 7.11.

New Rule, R.1993 d.62, effective February 1, 1993.

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

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

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

Substituted references to WFNJ/GA for references to GA throughout; and in (a) and (d), substituted references to WFNJ/TANF for references to AFDC.

Recodified from N.J.A.C. 10:87-2.39 and amended by R.2004 d.181, effective May 17, 2004.

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

Rewrote the section. Former N.J.A.C. 10:87-2.35, WFNJ/TANF eligibility determination (PA households), recodified to N.J.A.C. 10:87-2.31.

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

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

In (b)4, substituted "Disqualified" for "A household member not the household head, disqualified"; deleted (c)2; and recodified (c)3 through (c)4 as (c)2 through (c)3.

10:87-2.36 (Reserved)

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).

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

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

In (a), substituted a reference to WFNJ for a reference to AFDC in the introductory paragraph, and added 5.

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

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

Substituted references to WFNJ/TANF for references to AFDC throughout; in (a), rewrote 4; and in (c), deleted a former 2, and recodified former 3 and 4 as 2 and 3.

Recodified to N.J.A.C. 10:87-2.32 by R.2004 d.181, effective May 17, 2004.

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

Section was "Categorically eligible WFNJ/TANF/SSI households".

10:87-2.37 (Reserved)

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).

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

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

In (b), substituted references to FSP 901 for references to FSP 901A in the introductory paragraph and 1.

Recodified to N.J.A.C. 10:87-2.33 by R.2004 d.181, effective May 17, 2004.

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

Section was "Procedures for SSI jointly processed households".

10:87-2.38 (Reserved)

R.1983 d.72, eff. February 28, 1983.

See: 15 N.J.R. 247(a), 15 N.J.R. 444(a).

Originally filed as an emergency adoption (R.1983 d.38) on February 22, 1983. Readopted as R.1983 d.72.

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).

Deleted "Licenses" and substituted "Is certified for".

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.

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 and added new (a)11.

Recodified to N.J.A.C. 10:87-2.34 by R.2004 d.181, effective May 17, 2004.

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

Section was "Elderly or disabled household members".

10:87-2.39 (Reserved)

New Rule, R.1993 d.62, effective February 1, 1993.

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

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

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

Substituted references to WFNJ/GA for references to GA throughout; and in (a) and (d), substituted references to WFNJ/TANF for references to AFDC.

Recodified to N.J.A.C. 10:87-2.35 by R.2004 d.181, effective May 17, 2004.

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

Section was "Categorically eligible WFNJ/GA households".

SUBCHAPTER 3. ELIGIBILITY FACTORS OTHER THAN NEED

10:87-3.1 Applicability

Nonfinancial eligibility factors in this section shall apply equally to all applicant households (see N.J.A.C. 10:87-2.19 and 2.20 for verification requirements).

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).

Added "2.20" to N.J.A.C. 10:87 reference.

Amended by R.2004 d.181, effective May 17, 2004.
See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

Amended the N.J.A.C. references.

Case Notes

Determination of status as non-striker eligible for Food Stamp Program. A.R. v. Middlesex Cty. Welfare Agency, 5 N.J.A.R. 270 (1983).

10:87-3.2 Residency in the county

(a) A household must be a resident of the county in which it files an application for participation. No individual may participate as a member of more than one household, or more than one county, in any month except as provided for in this section.

(b) Residents of shelters for battered women and children may participate in the program as a member of more than one household or in more than one county as a separate household in any month if the previously certified household of which they were members also contains the person who subjected them to abuse. (See also N.J.A.C. 10:87-2.4(a)4.)

1. Shelter residents who are included in such certified households may receive an additional allotment as a separate household only once a month.

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 battered women and children.

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 N.J.A.C. 10:87-9.8 deleted.

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.2004 d.181, effective May 17, 2004.
See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

In (b), deleted "Residents of shelters for battered women and children."; added the N.J.A.C. reference.

10:87-3.3 Determination of residency

(a) For purposes of the Food Stamp Program, a person shall be considered a resident in the place in which he or she actually lives, without regard to legal residence or intent to remain permanently. There shall be no requirement that a person reside in the county for a specified period of time prior to application. A fixed residence is not required; for example, migrant campsites satisfy the residency requirement.

1. The residency requirement shall be verified except in unusual cases such as homeless households, migrant farm-worker households or households newly arrived to the project area where verification of residency cannot reasonably be accomplished.

(b) A person temporarily visiting the county solely on vacation shall not be considered a resident.

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)1.

Amended by R.2004 d.181, effective May 17, 2004.
See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

In (b), deleted "Vacationer excluded.".

Case Notes

Applicant was entitled to obtain food stamps from county of residence even though she lived at school in another county during a portion of year. Bergen County Board v. R.K., 95 N.J.A.R.2d (DEA) 21.

10:87-3.4 Recording applicant's address

The county welfare agency shall be responsible for recording the applicant's correct address, or location where the applicant may be contacted, in the case record. Confidentiality for persons participating in the Address Confidentiality Program shall be maintained in accordance with N.J.A.C. 10:87-1.14. The CWA shall not require an otherwise eligible household to reside in a permanent dwelling or have a fixed mailing address as a condition of eligibility.

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.2004 d.181, effective May 17, 2004.
See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

Added second sentence.

10:87-3.5 Citizenship or permanent alien status

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

Amended by R.2007 d.129, effective May 7, 2007.
See: 38 N.J.R. 4374(a), 39 N.J.R. 1719(a).

Substituted "a qualified" for "an".

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. 10:87-2.20(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).

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.

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

See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).
Amended N.J.A.C. reference.

10:87-3.7 Eligible alien

(a) Qualified 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) 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. 10:87-2.19(c)).

(c) 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 or 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).

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

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

In (b), deleted "Ineligible alien as a member of the household" and amended the N.J.A.C. reference; in (c), deleted "Ineligible alien as applicant".

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

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

Substituted "Qualified aliens" for "alien".

10:87-3.8 Eligible aliens defined

(a) A documented alien is an individual with "documentation," supplied by the United States Citizenship and Immigration Services (USCIS), which supports the alien being in the United States. An undocumented alien is an individual who has no "documentation," supplied by USCIS to indicate his or her alien status.

(b) Immigrants shall meet the following two requirements to be eligible for food stamp benefits in addition to other program requirements:

1. Be in a qualified alien category; and
2. Meet a condition that allows qualified aliens to get food stamp benefits.

(c) A qualified alien in the context of food stamp benefit eligibility is defined as an individual who falls into one of the categories required for qualified alien status (see (d) and (e) below).

(d) The following qualified aliens shall be eligible for participation in the Food Stamp Program, with the provision that all other eligibility requirements are met. If any of the qualified aliens listed at 1 through 5 below change their alien status to a qualified alien listed at (e) below, they would retain their exempt status and would not have to meet one of the special qualifying conditions at (f) below. The date of entry would remain at the original date of entry and not the date of the change of status.

1. An asylee, granted under Section 208 of the Immigration and Nationality Act (INA), P.L. 101-649, 8 U.S.C. §§1101 et seq.

2. A refugee admitted under 8 U.S.C. §1157. Trafficking Victims Protection Act of 2002 requires trafficking victims to be treated as refugees;

3. A deportee whose deportation is withheld under 8 U.S.C. §§1253(h) or 1251(b)3;

4. A Cuban or Haitian Entrant as defined in 8 U.S.C. §11522, the Alien Refugee Education Assistant Act of 1980; and

5. An Amerasian Immigrant under 8 U.S.C. §1101 et seq., the Foreign Operations, Export Financing and Related Program Appropriations Act.

(e) The following list of qualified aliens shall be required to meet one of the special criterion listed in (f) below to be eligible for participation in the Food Stamp Program:

1. A battered spouse, battered child, parent or child of a battered person with a petition pending under 8 U.S.C. §1154(a)(1)(B)(ii) or (iii), or 8 U.S.C. §1254(a)3 providing that the individual responsible for the battery or cruelty is not residing in the same household as the individual subjected to the battery or cruelty;

2. A lawfully admitted alien for permanent residence (I-551 form) (holders of green cards);

3. A paroled alien under 8 U.S.C. §1182(d)(5) for at least one year; and

4. An alien granted conditional entry under 8 U.S.C. §1153(a)7.

(f) The four qualified aliens listed under (e) above shall meet one of the special criteria listed below in order to be eligible to participate in the Food Stamp Program.

1. He or she is a lawfully admitted for permanent residence (LPR), who can be credited with 40 quarters of work (which is allowed to include the sum of LPR, plus parent and spouse);

2. He or she is a member of the military or has a military connection (veteran, active duty, spouse and children);

3. He or she is lawfully in the U.S., regardless of date of entry and under 18 years of age;

4. He or she is lawfully in the U.S., regardless of date of entry and receiving disability benefits;

5. He or she is lawfully in the U.S. on August 22, 1996 and 65 years of age or older on August 22, 1996; or

6. He or she is lawfully in the U.S. as a qualified alien, for at least five years.

(g) The following procedures regarding eligible aliens are to be followed:

1. To obtain history of immigrant status, ask client for his or her USCIS form G845-Supplement;

2. In order to be eligible for the Food Stamp Program, qualified aliens who are not immediately eligible, pursuant to (e)1 through 4 above, shall be required to meet special criteria listed under (f) above;

3. Persons are considered disabled for food stamp purposes if they are receiving or certified to receive SSI, interim assistance pending SSI, Social Security disability, Federal or State disability retirement benefits for a permanent disability, veteran's disability benefits, or railroad retirement disability. In addition, persons receiving disability-related Medicaid, State or Federal supplemental assistance, and disability-related State General Assistance benefits may be considered disabled for food stamp purposes if they are determined disabled using Federal SSI criteria. State General Assistance or medical programs that use a medical practitioner's statement in order to determine that an immigrant meets the SSI disability criteria shall meet the disability criteria under the Food Stamp Program.

4. For both six-month reporting and change reporting cases, if the CWA is aware of an alien child turning 18 years old during the certification period at the time the household is last recertified, the CWA shall act on the change according to N.J.A.C. 10:87-9.5. The CWA shall determine if the child remains eligible based on other food stamp criterion as found at N.J.A.C. 10:87-3.8(f). If the household is on change reporting, the household is required to report the change within 10 days.

(h) The following aliens are eligible to participate in the Food Stamp Program, even if they are not qualified aliens, and are eligible for an indefinite period of time.

1. Certain Hmong or Highland Laotians (spouse and children); and

2. American Indians born in Canada to which Section 289 of INA (8 U.S.C. §1359) applies, and members of an Indian tribe as defined in Section 4(e) of the Indian Self-Determination and Education Assistance Act (cross-border Indians) (25 U.S.C. §450b(e)).

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).

Amended by R.1998 d.498, effective October 5, 1998.
See: 30 N.J.R. 1928(a), 30 N.J.R. 3669(b).

Rewrote the section.

Amended by R.2004 d.181, effective May 17, 2004.
See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

Rewrote the section.

Repeal and New Rule, R.2007 d.129, effective May 7, 2007.

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

Section was "Eligible aliens; listing".

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

(a) The following aliens are not eligible to participate in the Food Stamp Program:

1. Visitors, tourists, students and diplomats;
2. Aliens residing under Color of Law.

i. "Color of law" means aliens that are in the United States under statutory authority and those allowed to remain in the United States by administrative discretion;

3. Undocumented aliens;
4. Aliens who have applied for eligible status, but who have not yet been approved; and
5. Aliens whose status is questionable or unverified.

(b) The CWA shall report to the United States Citizenship and Immigration Services (USCIS) a household member who has applied and who is ineligible to receive food stamp benefits, when that person is known to be in violation of the Immigration and Naturalization Act, 8 U.S.C. §1101 et seq. The reporting containing the name, address, and other identifying information shall be submitted no later than the 45th day of the calendar quarter after which it was discovered. As there are four calendar quarters in a given year, that is, March 31, June 30, September 30, and December 31, the identifying information shall be submitted by April 15, August 14, November 14 or February 14, respectively. The information shall be reported to: Director, Policy Directives and Instructions Branch, United States Citizenship and Immigration Services, 425 I Street NW-Room 4034, Washington, DC 20536 (USCIS No. 2070-00).

1. Illegal aliens who must be reported are only those applicants who the CWA knows are in violation of residency requirements, based on a finding of fact or as a conclusion of the law, which is supported by an official determination of the USCIS. The status of known illegal aliens may also be officially determined based on a review by the Executive Office of the USCIS, and supported by a Final Order of Deportation. Only the United States Department of Justice can make a determination of an alien's legal status. No other agency is so charged. The requirement to report a known illegal immigrant is not applicable to anyone who is not part of the household or is not applying for assistance. Applicants may be informed that the CWA is required to report illegal aliens to the USCIS in cases where the USCIS has made the determination that the alien is in the country illegally.

2. When a person indicates inability or unwillingness to provide documentation of alien status, the CWA shall classify that person as an ineligible alien. In such cases the CWA agency shall not continue efforts to obtain that documentation and shall not report that individual to the USCIS.

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

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

Repeal and New Rule, R.2007 d.129, effective May 7, 2007.

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

Section was "Ineligible aliens".

10:87-3.10 Income and resources of ineligible aliens and individuals 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 at N.J.A.C. 10:87-7.7(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.

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

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

Amended N.J.A.C. reference.

10:87-3.11 Awaiting verifications

(a) If verification of eligible alien status or citizenship as required by N.J.A.C. 10:87-2.19(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 at N.J.A.C. 10:87-7.7(c) and considered available in determining the eligibility of the remaining household members.

(b) 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 timeliness standards at N.J.A.C. 10:87-9.5(b).

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).

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

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

In (b), deleted "Subsequent verification."; amended N.J.A.C. references throughout.

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

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

1. 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 or her food stamp benefits to purchase meals prepared at a communal dining facility authorized by FNS for that purpose. In addition, if such household member lives with his or her spouse, the spouse may also use benefits to purchase meals from a communal dining facility.

iii. The other program agency agrees to make available, at the request of the CWA, information about food stamp recipients that it did not follow up on; and

iv. The follow-up action taken by the other program agency is at least as beneficial as similar action would be if taken by the CWA.

(f) With respect to information received as a result of requests made according to (e) above, CWAs shall initiate and pursue actions according to the specific attachment to the State Plan of Operation.

1. CWA action on information items about recipient households shall include:

i. Reviewing the information and comparing it to case record information;

ii. For all new or previously unverified information received, contacting the households to resolve discrepancies as specified in (d) and (e) above.

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 at N.J.A.C. 10:87-11.20.

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).

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

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

In (b)1i, substituted a reference to WFNJ/TANF for a reference to AFDC.

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

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

In (d), amended the N.J.A.C. reference and deleted "paragraphs" preceding "(e) and (f) below" in 1; in (e)5, substituted "when it is considered verified upon receipt of UIB, SDX, Social security, and so forth" for "until the receipt of UIB is reported" in ii and deleted iii; in (f), amended the N.J.A.C. reference in 3.

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) 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) A student shall be considered "enrolled" in an institution of higher education beginning on the first day of the school term. 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).

(d) In order to be eligible to participate in the Food Stamp Program, any student (as defined in (a) above) shall 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 pro-

gram. To qualify under this provision, the student must be approved for work study at the time of application for food stamps, the work study must be approved for the school term, and the student must anticipate actually working during that time. Student eligibility based on work study participation begins either with the month in which the school term begins or the month that participation in work study is approved, whichever occurs last. Once eligible, the student's eligibility shall continue until either the end of the month in which the school term ends, or it becomes known that the student has refused to participate in the work study program. Student eligibility based on work study participation shall not continue between terms where there is a break of a full month or longer, unless the student is participating in work study during the break;

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 Work First New Jersey/Temporary Assistance for Needy Families (WFNJ/TANF) program;

6. Participate in the JOBS program under Title IV of the Social Security Act;

7. Be assigned to or placed in an institution of higher education through or in compliance with the requirements of one of the programs identified at (d)7i through iv below. Self-initiated placements during the period of time the person is enrolled in one of these employment and training programs shall be considered to be in compliance with the requirements of the employment and training program in which the person is enrolled, provided that the program has a component for enrollment in an institution of higher education, and that the program accepts the placement. Persons who voluntarily participate in one of these employment and training activities, and are placed in an institution of higher education through or in compliance with the requirements of the activity, shall also qualify for the exemption. The programs are:

i. A program under the Workforce Investment Act of 1998 (WIA) (P.L. 105-220); or

ii. A Food Stamp Employment and Training Program (FSETP) activity under N.J.A.C. 10:87-10.4; or

iii. A program under Section 236 of the Trade Act of 1974 (Public Law 93-618); or

iv. An employment and training program for low-income households that is operated by the State of New Jersey, or its local governments, where one or more of that program's requirements is at least equivalent to an acceptable FSETP component as specified at N.J.A.C. 10:87-10.14; or

8. Be a single parent enrolled in an institution of higher education on a full-time basis (as defined by the institution), and be responsible for the care of a dependent child under the age of 12. This provision is to be applied in those situations where only one natural, adoptive, or step-parent (regardless of marital status) is in the same food stamp household as the child. (For example, if one natural parent and a step-parent are living with the child, neither the natural parent nor the step-parent shall qualify as an eligible student under this provision.) If no natural, adoptive, or step-parent is in the same food stamp household as the child, another full-time student in the same food stamp household as the child may qualify for eligible student status under this provision if he or she has parental control over the child, and is not living with his or her spouse.

(e) 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.

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

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

Rewrote (d).

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

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

In (d)5, substituted a reference to WFNJ/TANF for a reference to AFDC.

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

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

In (d), substituted "shall" for "must" in the introductory paragraph, substituted "Workforce Investment Act of 1998 (WIA) (P.L. 105-202)" for "Job Training Partnership Act of 1974 (JTPA), 18 U.S.C. § 665" in 7i, and amended the N.J.A.C. reference in 7iv; deleted introductory phrases throughout.

10:87-3.15 Social Security numbers

Providing the Social Security Number for each household member is voluntary; however, failure to provide a SSN will result in denial of food stamp benefits to each individual failing to provide a SSN. Once a SSN is verified, the CWA may share it with other State and Federal agencies. Any SSNs provided of non-applicant members shall be used and disclosed in the same manner as SSNs of eligible household members. 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.
Amended by R.2004 d.181, effective May 17, 2004.
See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

Rewrote the section.

10:87-3.16 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 or, if available, to electronically register.

(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).
Amended by R.2004 d.181, effective May 17, 2004.
See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

In (b), inserted "or, if available, to electronically register" at the end.

10:87-3.17 Felons and parole violators

Individuals are ineligible for the Food Stamp Program benefits while they are fleeing to avoid prosecution, custody, or confinement for a felony or attempted felony, or for violating a condition of probation or parole. If the CWA determines that an individual has a warrant out for his or her arrest, the agency shall also verify that the individual has knowledge of the warrant. Once an individual has knowledge of the warrant, either by having received the warrant personally, or by being advised of its existence by the agency, he or she is technically at that time "fleeing" and

ineligible for food stamp benefits. Where the agency learns that an individual has a warrant out for his or her arrest during the application processing period, the worker is required to verify with the applicant whether he or she has knowledge of the warrant. Furthermore, the individual shall be given the opportunity to submit documentation that a warrant has been satisfied, if that is what he or she states.

New Rule, R.1998 d.498, effective October 5, 1998.
See: 30 N.J.R. 1928(a), 30 N.J.R. 3669(b).
Amended by R.2004 d.181, effective May 17, 2004.
See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).
Rewrote the section.

10:87-3.18 Individuals convicted of use, possession, or distribution of controlled substances

(a) A person convicted on or after August 22, 1996 under Federal or State law of any offense which occurred on or after August 22, 1996 which is classified as a felony, high misdemeanor or crime, under the laws of the jurisdiction involved and which has as an element the distribution, possession, or use of a controlled substance as defined in section 102(6) of the Federal "Controlled Substances Act" (21 U.S.C. § 802(6)) shall be ineligible for the Food Stamp Program unless enrolled in, actively participating in or has completed a licensed residential substance abuse treatment program (LRDTP).

1. 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 six months is authorized."

(b) A person convicted on or after August 22, 1996 of any such offense which has as an element the possession or use of such a controlled substance shall be eligible, if otherwise eligible, for benefits, if the person has completed a substance abuse treatment program licensed or approved by the State of New Jersey Department of Health and Senior Services (DHSS), at the conclusion of which the person is certified drug free by an authorized program representative.

1. Eligibility for benefits shall commence upon completion of the established requirements of the DHSS licensed or approved substance abuse treatment program.

2. A good cause exception may be granted, as determined by the FSP certification worker, to persons convicted of possession or use of a controlled substance who want to establish eligibility for FSP benefits when:

i. The person confirms his or her participation in the Drug Court Initiative (DCI). Documentation shall consist of written verification, on agency letterhead, confirming that a Treatment Assessment Services for the Courts (TASC) evaluator's substance abuse assessment has been completed and the level of treatment required by the courts. DCI participants are not referred to the Substance Abuse Initiative (SAI) for assessment or substance abuse treatment;

ii. The FSP certification worker is able to confirm that:

(1) The person has already completed a DHSS licensed or approved residential, in-patient or out-patient substance abuse treatment program;

(2) The person entered a DHSS licensed or approved residential substance abuse treatment program (SATP) on his or her own and is actively participating in treatment; or

(3) The person does not need substance abuse treatment at this time and he or she is able to function at work or in a work activity;

iii. The person confirms that he or she was enrolled in a DHSS facility, and then later discharged as a result of physical or mental health problems (including pregnancy). Documentation shall consist of written verification on agency letterhead, from the facility that he or she was discharged confirming the reason for the discharge and the date of discharge; and

iv. The person is not able to enroll in a DHSS licensed or approved SATP, due to the facility's inability to accommodate the person's physical or mental health problems (including pregnancy) or capacity issues in the treatment programs. Such an individual shall make and document his or her good faith effort to attempt to enroll in at least three facilities. Attempts by the individual to enroll in a facility may be pursued by telephone. Documentation shall consist of written confirmation from each DHSS licensed or approved SATP, on agency letterhead, verifying that the person sought entry into the facility; and, the date(s) and reason (mental or physical health problems or capacity issues in the treatment programs) the facility denied the individual's request for enrollment. Documentation of the person's good faith effort shall be provided promptly, as a condition of eligibility, so that the eligibility determination can be completed within the 30-day time frame in accordance with N.J.A.C. 10:90-1.5.

3. A good cause exception may also be granted, as determined by the FSP certification worker, to persons convicted of distribution of a controlled substance for the same reasons and under the same conditions identified at (b)2 above for persons convicted of possession or use who want to establish eligibility for FSP benefits.

(c) During the first 60 days after successful completion of the drug treatment program or at the time of application or case redetermination, it must be determined, via testing by an entity designated by DFD, that the person is free of any nonprescribed controlled substance. If the person is determined not to be free of any controlled substance during, or at the conclusion of, the 60-day period, the person's eligibility for benefits shall be terminated immediately, after allowing for the issuance of advance notice of adverse action.

(d) If the test indicates positive for any controlled substance, benefits cannot be granted or reinstated until the person completes another substance abuse treatment program, and remains drug free for a minimum of 60 days and is determined via testing to be free of any non-prescribed controlled substance.

New Rule. R.1998 d.498, effective October 5, 1998.

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

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

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

In (a), inserted "unless enrolled in, actively participating in or has completed a licensed residential substance abuse treatment program (LRDTP)" at the end of the introductory paragraph; rewrote (b); in (d), substituted "If the test indicates positive for any controlled substance, benefits" for "Benefits" and substituted "substance abuse" for "drug".

10:87-3.19 Disqualification due to duplicate participation

Individuals found in a court or administrative hearing to have made a fraudulent statement regarding their identity or residence in order to concurrently receive food stamp benefits in more than one state or county shall be disqualified from the Program for 10 years.

New Rule, R.1998 d.498, effective October 5, 1998.

See: 30 N.J.R. 1928(a), 30 N.J.R. 3669(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, WFNJ/TANF and WFNJ/TANF 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 WFNJ/TANF, and resource eligibility is or has been established for WFNJ/TANF, 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. 10:87-2.32 and 2.35 do not have to meet the resource limits or definitions of this subchapter. Categorically eligible households cited at N.J.A.C. 10:87-2.32 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.

Amended by R.1999 d.6, effective January 4, 1999.
See: 30 N.J.R. 3451(a), 31 N.J.R. 69(a).

In (a), substituted references to WFNJ/TANF for references to AFDC.
Amended by R.2004 d.181, effective May 17, 2004.

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

In (b), amended the N.J.A.C. references following "s defined at" and "cited at" respectively.

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. 10:87-2.19, 2.20 and 4.5).

1. 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 at 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).

iii. Money placed into an account from a reverse mortgage shall be considered a liquid resource;

2. Monies withdrawn from a 401K plan.

i. In counting resources of a household with monies withdrawn from a 401K plan, the CWA shall include the total cash value of the monies withdrawn. If the

401K plan has been withdrawn early, the resource amount is determined by subtracting the penalty (if any) assessed for early withdrawal from the total amount of monies received;

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

4. Resources deemed to an alien from his or her sponsor, in accordance with N.J.A.C. 10:87-7.11.

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.

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

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

In (a), amended the N.J.A.C. references in the introductory paragraph and 3, substituted "at" for "in" and "under" respectively in the introductory paragraph of 1 and in 2; deleted the introductory phrases throughout.

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

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

Added (a)1iii and new (a)2; recodified former (a)2 through (a)3 as (a)3 through (a)4; in (a)3, substituted "; and" for the period at the end; and in (a)4, deleted "shall include resources" following "Resources", and inserted a comma following "sponsor".

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) 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 at N.J.A.C. 10:87-2.3(c) residing with the household shall be considered household members.

(c) The following resources shall be considered inaccessible to residents of a shelter for battered women and children:

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".
Amended by R.2004 d.181, effective May 17, 2004.
See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

In (b), deleted the introductory phrase and substituted "at" for "in" preceding the N.J.A.C. reference; in (c), substituted "The following resources" for "Residents of shelter for battered women and children: Resources" in the introductory paragraph.

10:87-4.5 Verification of resource information

Resource information shall be verified prior to certification only if questionable (see N.J.A.C. 10:87-2.20).

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.
Amended by R.2004 d.181, effective May 17, 2004.
See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).
Amended N.J.A.C. reference.

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

(a) The resources of nonhousehold members, as described at N.J.A.C. 10:87-2.3(a), shall not be counted as available to the household in accordance with N.J.A.C. 10:87-7.7(e) and (f).

(b) The resources of excluded household members, as described at 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. 10:87-7.7(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.

Amended by R.2004 d.181, effective May 17, 2004.
See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

In (b), amended the N.J.A.C. reference following "in accordance with"; substituted "at" for "in" following "as described" and deleted the introductory phrases throughout.

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

i. 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. 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. 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, including such items as furniture and appliances.
 3. Personal effects, including such items as clothing or jewelry.
 4. One burial plot per household member. In addition, the value of one bona fide funeral agreement per household member is also excluded (including cremation), provided that the agreement does not exceed \$1,500 in equity value. If the agreement exceeds \$1,500 in equity value, then any value in excess of \$1,500 shall be counted towards the household's resource limit.
 5. The cash value of life insurance policies.
 6. The cash value of pension plans (such as 401Ks) 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. 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, 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, such as the tools of a tradesman or the machinery of a farmer, which is essential to the employment of a household member.
 10. Certain licensed vehicles (see N.J.A.C. 10:87-4.12).
 11. 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. 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 of disaster loans or grants made by the Small Business Administration (SBA) shall be excluded.
 13. 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. 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. When the equity value of any vehicle is under \$1,500, it shall be considered as an inaccessible resource.
 14. 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. The trustee administering the funds is one of the following:
 - (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. The funds held in an irrevocable trust are either of the following:

(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 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. The trust arrangement is not likely to cease during the certification period; and

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

15. 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)).

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

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

iii. Payments received from the disposition of funds to the Grand River Band of Ottawa Indians (Public Law 94-540);

iv. 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 tribal members regarding submarginal land held in trust by the United States (Public Law 94-114);

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

vii. Payments or allowances made under any Federal 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. Home Energy Assistance payments, as well as Federal or State one-time payments for weatherization, or emergency repair or replacement of heating or cooling devices qualify for this exclusion;

viii. 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 to the Passamaquoddy 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. Federal and State earned income tax credits (EITC) received either as a lump sum or as payments under Section 3507 of the Internal Revenue Code shall be excluded for 12 months, provided that the household was participating in the Food Stamp Program at the time of receipt of the earned income tax credit, and provided the household participates continuously during that 12-month period. Breaks in participation of one month or less due to administrative reasons, such as delayed certification, shall not be considered as nonparticipation in determining the 12-month period;

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

xiii. Resources of a household member receiving WFNJ/TANF and/or SSI benefits;

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

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

xvi. All payments from the Agent Orange Compensation Exclusion Act (P.L. 101-201), retroactive to January 1, 1989. Payments made from the Agent Orange settlement fund under section 10405 of P.L. 101-239 are also excluded. Veteran's benefits authorized under the Agent Orange Act of 1991 (P.L. 102-4) are not excluded by law;

xvii. Payments under the Crime Act of 1984 to victims of crime (P.L. 103-322);

xviii. Payments made under Section 421 of P.L. 104-204 for children of Vietnam veterans who are born with spina bifida;

xix. Payments made under the Nazi Persecution Crimes Act;

xx. Payments made under Public Law 100-707, the Robert T. Stafford Disaster Relief and Emergency Assistance Act, to pay Disaster Unemployment Assistance to any individual unemployed as a result of a major disaster; and

xxi. Payments under Public Law 109-64, which amended the National Flood Insurance Act of 1968, mandates that payments made under the National Flood Insurance Program (NFIP) for flood mitigation activities shall not be counted as a resource of the owner of the property when determining eligibility for any Federal means-tested program. In determining eligibility for the Food Stamp Program, CWAs shall exclude as resources any payments received by property owners under NFIP.

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.)

20. Funds held in an Individual Development Account (IDA) established in accordance with Public Law 2001, c.93.

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.

Amended by R.1998 d.498, effective October 5, 1998.
See: 30 N.J.R. 1928(a), 30 N.J.R. 3669(b).

In (a), rewrote 4 and 17.

Amended by R.1999 d.6, effective January 4, 1999.
See: 30 N.J.R. 3451(a), 31 N.J.R. 69(a).

In (a)17xiii, substituted a reference to WFNJ/TANF for a reference to AFDC.

Amended by R.2004 d.181, effective May 17, 2004.
See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

Rewrote (a).

Amended by R.2007 d.129, effective May 7, 2007.
See: 38 N.J.R. 4374(a), 39 N.J.R. 1719(a).

In (a)6, inserted "(such as 401Ks)"; in (a)17xi, inserted "and State", and deleted the last sentence; in (a)17xiv, deleted "and" from the end; in (a)17xv through (a)17xix, substituted a semicolon for the period at the end; and added (a)17xx and (a)17xxi.

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) The resources of students and self-employed persons that are excluded as provided at 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. Amended by R.2004 d.181, effective May 17, 2004. See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

In (b), deleted the introductory phrase and substituted "at" for "in" preceding the N.J.A.C. reference.

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 Kelley's Blue Book (KBB) website at www.kbb.com, incorporated herein by reference. County and municipal welfare agencies shall not use any other method to calculate market value of vehicles, including other websites. In order to obtain the KBB value of a vehicle, the CWA shall select the "trade-in" value option in "fair" condition and shall not increase the basic value of a vehicle by adding the value of low mileage or other factors such as optional equipment.

(b) 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 KBB value does not apply to its vehicle shall be given the opportunity to acquire verification of the true value from a reliable source.

(c) 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) If the vehicle is especially equipped with apparatus for the handicapped, the apparatus shall not increase the value of the vehicle. The KBB value shall be assigned as if the vehicle were not so equipped.

(e) If a vehicle is no longer listed on the KBB website, 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 a 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. Amended by R.2004 d.181, effective May 17, 2004. See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

Rewrote (a); in (e), substituted "on" for "in" following "is no longer listed"; deleted the introductory phrases and substituted references to KBB for reference to the Red Book throughout.

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. 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. Vehicles used to produce income, which include, but are not limited to, a taxi, truck or fishing boat; a car used for a job as a delivery person; a motor vehicle used by a courier; a car used by a household member to call on clients or customers, even though the vehicle is not used for long-distance travel; or a vehicle used to perform a job requiring a personally-owned motor vehicle, no matter the percentage of time it is used to produce income. Commuting to or from work, however, continues not to be considered as income producing. CWAs shall no longer verify amount of miles traveled for income-producing vehicles.

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

iii. 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 farm worker 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. The vehicle is used as a home and therefore excluded at N.J.A.C. 10:87-4.8(a).

v. 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. It is not necessary for a vehicle required to transport a disabled or excluded

individual to have any special equipment in order to be excluded.

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).)

vii. A vehicle shall be totally excluded from countable resources if it is used to transport either the primary source of fuel for heating or water for the household's home use.

(b) 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 \$9,500 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 \$10,000 shall have \$500.00 applied to its resource level even though it still owes \$2,000 toward the purchase of the vehicle.

1. Any value in excess of \$9,500 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 not be added together to reach a total fair market value in excess of \$9,500.

(c) Each licensed vehicle shall 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 \$9,500. If worth more than \$9,500, the portion in excess of \$9,500 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.

Amended by R.1998 d.498, effective October 5, 1998.
See: 30 N.J.R. 1928(a), 30 N.J.R. 3669(b).

In (a)1, added vii; and in (b), (c) and (f), changed monetary amounts throughout.

Amended by R.2004 d.181, effective May 17, 2004.
See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

Rewrote the section.

Amended by R.2007 d.129, effective May 7, 2007.
See: 38 N.J.R. 4374(a), 39 N.J.R. 1719(a).

Deleted (c) through (e); recodified former (f) as (c); in (c), substituted "Each" for "In summary, each", deleted "handled as follows: First, it will be" following "licensed vehicle shall be", and deleted the last sentence.

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 and beginning on October 1, 2002, members who are disabled as defined at N.J.A.C. 10:87-2.34, 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.

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

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

In (a), inserted "and beginning on October 1, 2002, members who are disabled as defined at N.J.A.C. 10:87-2.34" following "60 or over".

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 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. Resources that are sold or traded at, or near, fair market value;

3. 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. 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 at 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).

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

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

In (a), substituted "at" for "in" in 4 and deleted the introductory phrases throughout.

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 \$10,000, \$500.00 of that transfer would be considered in determining the period of ineligibility because the first \$9,500 of the car's value is excluded and an additional \$150.00 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 months |
| 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.
 Amended by R.2004 d.181, effective May 17, 2004.
 See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).
 Amended dollar amounts in the introductory paragraph.

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 (Reserved)

New Rule, R.1989 d.121, effective February 21, 1989.
 See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).
 Repealed by R.2004 d.181, effective May 17, 2004.
 See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).
 Section was "Resources of nonhousehold members".

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 at N.J.A.C. 10:87-2.32 and 2.35 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.
 Amended by R.2004 d.181, effective May 17, 2004.
 See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).
 In (b), amended the N.J.A.C. references.

10:87-5.2 Responsibilities regarding the reporting of income

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

1. 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 changes in circumstances, in accordance with N.J.A.C. 10:87-9.5, during the certification period.

2. 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 (application form), and in sufficient detail to permit verification (see also N.J.A.C. 10:87-2.19(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).
 Amended by R.2004 d.181, effective May 17, 2004.
 See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).
 In (a), rewrote the section.

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).

Law Review and Journal Commentaries

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 the following:

1. All wages and salaries received as compensation for services performed as an employee;

2. 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;

3. 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. 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. Payments received from a roomer or boarder shall be considered self-employment income.

4. Training allowances from vocational and rehabilitative programs recognized by Federal, State, or local governments, to the extent they are not a reimbursement (see N.J.A.C. 10:87-5.9(a)9iii(l));

5. 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 at N.J.A.C. 10:87-5.10(a)2, excluding payments to households as set forth at N.J.A.C. 10:87-5.9(a)15iii;

6. Earnings to individuals who are participating in on-the-job training programs under the Workforce Investment Act per 7 C.F.R. 273.9(b)(1)(v). This provision does not apply to household members under 19 years of age who are under the parental control of another adult member, regardless of school attendance and/or enrollment. For the purpose of this provision, earnings include monies paid under the Workforce Investment Act and monies paid by the employer;

7. Educational assistance which has a work requirement (such as work study, or an assistantship or fellowship with a work requirement), and which is not excluded under N.J.A.C. 10:87-5.11, shall be treated as earned income.

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).

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

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

In (a), added 7.

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

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

In (a)4, deleted a reference to WIN and REACH.

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

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

Deleted the introductory phrases throughout and rewrote (a)6.

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 from Federal or Federally aided public assistance programs such as SSI or WFNJ/TANF and WFNJ/GA 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 at 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, without compensation other than the assistance payments themselves, shall be considered unearned income.

2. Annuities, pensions, retirement benefits, veteran's benefits, old-age, survivors, or disability benefits, workman's compensation, unemployment compensation, including any amount deducted to repay an IPV violation, 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. 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. Scholarships, educational grants, deferred payment loans for education, veteran's educational benefits and the like other than educational assistance with a work requirement in excess of amounts excluded at N.J.A.C. 10:87-5.9(a)7;

5. Support and alimony payments made directly to the household from nonhousehold members;

6. Payments from Federal, State, or local government-sponsored programs which can be construed to be a gain or benefit;

7. Payments in the form of dividends, interest, and royalties;

8. 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 shall be considered income in the month received unless excluded in accordance with N.J.A.C. 10:87-5.9;

ii. 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. All other direct money payments from any source which can be construed to be a gain or benefit to the household;

10. Income deemed to an alien age 18 or older from his or her sponsor in accordance with N.J.A.C. 10:87-7.11.

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;"

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

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

In (a)4, deleted a reference to fellowships, and inserted "other than educational assistance with a work requirement" following "the like".

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

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

In (a)1, substituted a reference to WFNJ/TANF and WFNJ/GA for a reference to AFDC and General Assistance in the introductory paragraph, and deleted a reference to GAEP in i.

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

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

Rewrote the section.

Case Notes

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

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

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

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

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

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

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

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

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

10:87-5.6 Income of excluded individuals

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

attributed in its entirety to the remaining household members (see N.J.A.C. 10:87-7.7(b)).

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

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

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

Originally adopted as an Emergency Rule, R.1983 d.116, effective March 31, 1983, operative April 1, 1983. The amendment is pursuant to the Food Stamp Act Amendments of 1982 (P.L. 97-253) and the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35).

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

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

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

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

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

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

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

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

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

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

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

Rewrote the section.

10:87-5.7 Special income situations

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

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

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

2. An amount up to the first \$50.00 per month of child support payments received for an WFNJ family through the child support and paternity (Title IV-D) process is disre-

garded in the WFNJ program and is paid to the WFNJ family in the form of disregarded child support (DCS) payments. The amount of the DCS payment shall be counted as unearned income for food stamp purposes in accordance with N.J.A.C. 10:87-5.5(a)5, as are any child support payments received directly by a food stamp household. DCS payments which are intended for a prior month shall be excluded under N.J.A.C. 10:87-5.9.

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

1. The CWA shall apply the Riverside Rule when an individual commits an act of noncompliance in the WFNJ/TANF/GA programs and it results in a sanctioning of that individual, regardless of whether or not there is a disqualification in the FSP.

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

i. The Riverside Rule shall also apply when an IPV has been committed which results in a sanction and the closure of a case.

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

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

4. The Riverside Rule shall be applied during the full period of the PA sanction. This would apply even if the household voluntarily withdraws from the PA program.

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

i. The Riverside Rule must have been established prior to or at the time of the WFNJ/TANF/GA program closing.

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

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

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

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

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

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

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

1. Clients whose WFNJ/TANF or WFNJ/GA benefits are terminated due to the five-year time limit on eligibility;
2. Clients have a child subject to the TANF family cap;
3. Clients fail to reapply or to complete the reapplication process for continued WFNJ cash assistance;
4. Clients fail to perform a purely procedural requirement, such as failing to sign an application; or
5. Clients fail to perform a required action because they are unable to complete the action through no fault of their own.

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

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

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

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

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

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

Substantially amended.

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

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

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

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

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

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

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

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

Rewrote the section.

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

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

Rewrote (c).

10:87-5.8 Income exclusions

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

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

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

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

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

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

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. Any gain or benefit which is not in the form of money payable directly to the household shall be excluded, including:

i. Non-monetary or in-kind benefits such as meals, clothing, public housing or produce from a garden.

2. 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 used 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 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. Payments by a government agency to a child care institution to provide day care for a household member are excluded as vendor payments.

iii. 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 vendor payments.

iv. 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 of 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) 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) 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. Examples are as follows:

(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.

v. 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.

i. When a public housing authority receives a household's HUD utility allowance and applies it toward the household's rent, the "net" rent that the household must pay shall be considered the rental expense for food stamp purposes. The HUD utility allowance, in this case, shall not be considered when determining (per N.J.A.C. 10:87-5.10(a)7iv(6)) whether the household is entitled to a HCSUA or LUA.

4. A WFNJ 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. WFNJ emergency assistance (including, but not limited to housing and transportation payments) for migrant or seasonal farmworker households while they are in the job stream;

iv. WFNJ/GA housing assistance from a State or local housing authority;

v. WFNJ/GA assistance which cannot be made directly to the household in the form of cash; or

vi. WFNJ emergency and special assistance provided to a third party on behalf of a household which is not otherwise specifically excluded from countable income. To be considered emergency or special assistance under this provision, the assistance must be provided over and above the normal WFNJ grant, or cannot be provided as part of the WFNJ grant.

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. Any income in the certification period which is received too infrequently or irregularly to be reasonably and anticipated but not in excess of \$30.00 in a calendar quarter, shall be excluded.

7. Educational loans on which payment is deferred, grants, work study, scholarships, fellowships, veteran's educational benefits and the like shall be excluded, in accordance with N.J.A.C. 10:87-5.11.

8. All loans, including loans from private individuals, as well as commercial institutions, are excluded from income. Educational loans in which repayment is deferred shall be excluded in accordance with N.J.A.C. 10:87-5.11. Any loan on which repayment must begin within 60 days after receipt of the loan shall not be considered a deferred repayment loan.

i. Reverse mortgages are considered loans and are therefore excluded as income. However, once these funds are placed in an account, they become an available resource.

9. 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 and are not excluded.

i. 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. 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 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) Reimbursements received by households to pay for services provided by Title XX of the Social Security Act (social services).

(5) Any allowance a county agency provides no more frequently than annually for children's clothes when the children enter or return to school or day care, provided the county agency does not reduce the monthly WFNJ/TANF payment for the month in which the school clothes allowance is provided. County agencies are not required to verify attendance at school or day care.

(6) Reimbursements made to the household at N.J.A.C. 10:87-10.15 for expenses necessary for participation in an education component under the Food Stamp Employment and Training Program.

iv. 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 (except for payments or reimbursements for such expenses made under an employment, education, or training program initiated under Title IV-A after September 19, 1988) shall be considered excludable under this provision.

(2) No portion of any educational assistance that is provided for normal living expenses (room and board) shall be considered a reimbursement excludable under this provision.

10. Money received and used for the care and maintenance of a third-party beneficiary who is not a household member shall be excluded.

i. 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.

iii. When one household is responsible for the payment of the rent, but shares the residence with a second household and receives a partial payment to pay the landlord from that second household, the household that actually pays the rent is not to have that partial payment considered as income.

11. Earned income (as defined at N.J.A.C. 10:87-5.4) of students (as defined at N.J.A.C. 10:87-10.2(b)3) under 18 years of age shall be excluded. This exclusion will continue to apply during temporary interruptions in school atten-

dance due to semester or vacation breaks; provided the child's enrollment will resume following the break.

i. 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. Individuals are considered children for the purposes of this provision if they are under the parental control of another household member.

12. The income, either earned or unearned, of an ineligible student as defined at N.J.A.C. 10:87-2.3(a)2i, shall be excluded.

13. 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.

i. Any SSI benefits which are direct deposited into an SSI Dedicated Account shall be treated as a non-recurring lump-sum payment, and are excluded from countable income, even if the funds are disbursed from the account. Interest earned in the account, however, shall be treated as income for FS purposes.

ii. An Early Employment Initiative (EEI) payment is treated as a lump sum payment and shall be excluded. (See also N.J.A.C. 10:87-4.1(b) for persons categorically eligible.)

14. The cost of producing self-employment income shall be excluded. The procedures for computing the cost of producing self-employment income are described at N.J.A.C. 10:87-7.3.

15. 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. Reimbursements from the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 (Public Law 91-646).

ii. Payments received under the Alaska Native Claims Settlement Act (Public Law (92-203).

iii. 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 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 received either as a lump-sum or as payments under Section 3507 of the Internal Revenue Code.

vii. Payments or allowances made under any Federal law for the purpose of energy assistance, except for payments made under Title IV-A of the Social Security Act. The Home Energy Assistance and HUD Utility Allowance programs qualify as excluded income under this provision, as do Federal or State one-time payments for either weatherization or the emergency repair and/or replacement of heating or cooling devices. A down payment followed by a final payment, upon completion of the work, shall be considered a one-time payment for purposes of this provision.

viii. Income derived from disposition of funds to the Grand River Band of the Ottawa Indians (Public Law 94-540).

ix. 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 94-443.

x. Payments to the Passamaquoddy 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).

used to determine the allowable amount (see N.J.A.C. 10:87-7.7(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 related to coverage under Title XVIII of the Social Security Act;

(6) Dentures, hearing aids, and prosthetics;

(7) Securing and maintaining a seeing eye or hearing dog including the cost of dog food and veterinarian bills, as well as the care and maintenance of a dog with a card that identifies him or her as a service dog, so designated by the Americans With Disabilities Act, 42 U.S.C. §§12101 et seq.;

(8) Eye glasses prescribed by a physician skilled in eye disease or by an optometrist;

(9) Reasonable cost of transportation and lodging to obtain medical treatment or services;

(10) Maintaining an attendant, homemaker, home health aide, housekeeper, or child care services, necessary because of age, infirmity, or illness. In addition, an amount equal to the one person benefit 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 certification. 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. 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. For care provided for children under the age of two, the deduction shall be the actual cost of such care, but shall not exceed \$200.00 per month per child. For other dependents, the deduction shall be the actual cost of such care, but shall not exceed \$175.00 per dependent. When a child becomes two years of age, the \$200.00 deduction shall continue to be applied until the household's next recertification.

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 WFNJ/TANF grant when determining the countable WFNJ/TANF grant for food stamp purposes (see (a)4 above).

5. Legally obligated child support payments paid by a household member to or for a nonhousehold member, including payments to a third party on behalf of the nonhousehold member (vendor payments). The CWA shall allow a deduction for amounts paid toward arrearages. Alimony payments made to or for a nonhousehold member shall not be included in the child support deduction.

6. 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).

i. 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 an 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; however, a household receiving HEA benefits is entitled to the HCSUA. The HSA is in lieu of the shelter deduction for a household which qualifies being entitled to the higher standard.

ii. 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.

7. Monthly shelter costs in excess of 50 percent of the household's income after all other deductions in (a)1, 2, 3, 4, and 5 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 at N.J.A.C. 10:87-2.34. 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. Only the following shall be considered in determining the shelter cost deduction:

(1) Continuing charges for the shelter occupied by the household, including rent, mortgage, condo and association fees 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 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) The costs of heating and cooking fuel; cooling and electricity; water and sewage; garbage and trash collection fees; the basic service fee, 911 fee, subscriber line charge, universal service fee, relay center surcharge, wire maintenance fee, plus tax, for one telephone (the uniform telephone rate is found at 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 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. 10:87-2.20(c) for verification requirement. The following conditions must be met in order to qualify for this deduction:

(1) The household must intend to return to the home. In the case of a natural disaster, the case shall be re-evaluated, if at the end of a 12-month period the household has not returned to the home.

(2) Current occupants, if any, of the home must not be claiming the shelter costs of that home for food stamp purposes.

(3) The home must not be leased or rented during the absence of the household.

iii. Charges for the repair of a home which was substantially damaged or destroyed due to a natural disaster, such as 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. 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 heating or cooling separate and apart from rent or mortgage payments shall claim the heating and cooling standard utility allowance (HCSUA). The CWA shall verify that the household is responsible for primary heating costs and cooling costs, unless the household has waived its right to a deduction. For those households that incur a cooling cost as a part of their utility expense, a simple declaration that the client is incurring cooling costs shall qualify them for the HCSUA.

(A) Households that are charged only for excess heating costs are not eligible for the HCSUA.

(B) Households that are responsible only for secondary sources of heat are not eligible for the HCSUA.

(C) Households that heat with wood must actually purchase the wood to be used as fuel to be eligible for the HCSUA.

(D) Renters who are billed by their landlords for heating fuel costs according to actual usage as determined by individual metering or renters in private, public or subsidized rental housing who are charged a flat rate or a continuing surcharge for heat separately from their rent shall claim the HCSUA.

(E) Households that receive a Home Energy Assistance payment are always eligible for the HCSUA. Eligibility for the HCSUA based on receipt of HEA shall coincide with the 12-month October 1 September 30 HEA eligibility period. The household shall retain HCSUA eligibility provided that it either received, or anticipates receiving, HEA benefits during the 12-month period.

(2) Households that do not incur heating or cooling costs separate and apart from rent or mortgage payments, but do incur at least two utility charges (such as, but not limited to, telephone, water, sewage, or garbage collection fees) and renters who live in private, public or subsidized housing who are charged a flat rate or continuing surcharge for utility usage separately and apart from their rent shall use the limited utility allowance (LUA). The CWA shall verify that the household incurs such utility charges unless the household has waived its right for a utility deduction.

(3) Households not entitled to use utility allowance may claim actual utility expenses in accordance with (a)5i(3) above.

(4) Households not entitled to use the LUA or HCSUA may claim actual utility expenses. This in-

cludes households claiming the HSA and households that only incur one utility expense.

(5) When a household shares a residence and the utility costs with other individuals, each household shall receive the full appropriate utility allowance, LUA or HCSUA.

(6) A household which has excluded energy assistance (for example, the HUD utility allowance) 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. A HUD utility allowance which is directly received and used by a public housing authority to reduce the household's rent (N.J.A.C. 10:87-5.9(a)3i) shall not be used to determine whether the household is qualified to receive a food stamp utility allowance.

(7) A household that has both an occupied home and an unoccupied home is only entitled to one standard.

(b) For the purpose of determining the medical and shelter expenses of a group home resident, the room and medical costs which can be separately identified are permissible medical and shelter expenses. If the amount the resident pays for room and meals is combined into one shelter expense amount, the amount which exceeds the food stamp maximum EBT issuance for a one-person household can be allowed as a shelter expense. If more than one resident applies as part of the same household, the one-person maximum allotment shall be deducted from the shelter portion of the payment for each person in that household. If the amount paid for shelter and/or medical costs cannot be identified, then no medical expense is allowed.

1. If the group home charges a basic rate for room and board, and a higher rate dependent upon the amount of medical care required by the resident, and the resident pays the higher rate, the basic rate less the one-person maximum allotment shall be used to determine shelter expenses, and the difference between the basic rate and the higher rate shall be used as the resident's medical expenses.

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.

Amended by R.1998 d.498, effective October 5, 1998.
See: 30 N.J.R. 1928(a), 30 N.J.R. 3669(b).

Rewrote the section.
Amended by R.2004 d.181, effective May 17, 2004.
See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

Rewrote (a).
Amended by R.2007 d.129, effective May 7, 2007.
See: 38 N.J.R. 4374(a), 39 N.J.R. 1719(a).

In (a)3i(3), deleted "(over-the-counter items, however, prescribed by a licensed practitioner and which may be purchased with food stamps, are not deductible)"; in (a)3i(7), inserted ", as well as the care and maintenance of a dog with a card that identifies him or her as a service dog, so designated by the Americans With Disabilities Act, 42 U.S.C. §§12101 et seq.;" and in (b), substituted "EBT issuance" for "coupon allotment".

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) Educational assistance includes grants, scholarships, fellowships, work study, educational loans on which payment is deferred, veterans' educational benefits and the like.

(b) To be excluded, educational assistance, as defined at (a) above, must be awarded to a household member enrolled at a:

1. Recognized institution of post-secondary education (meaning any public or private educational institution which either normally requires a high school diploma or equivalency certificate for enrollment, or admits persons who are beyond the age of compulsory school attendance in which the institution is legally authorized or recognized by the State to provide an educational program beyond secondary education in the State, or provides a program of training to prepare students for gainful employment, including correspondence schools at that level);
2. School for the handicapped;
3. Vocational education program;
4. Vocational or technical school; or
5. A program that provides for obtaining a secondary school diploma, or the equivalent.

(c) To be excluded, the education assistance must also be used for or identified (earmarked) by the institution, school program, or other grantor for the following allowable expenses:

1. Tuition;
2. Mandatory school fees, including the rental or purchase of any equipment, material, and supplies related to the pursuit of the course of study involved;
3. Books;
4. Supplies;
5. Transportation;
6. Miscellaneous personal expenses, other than normal living expenses, of the student incidental to attending a school, institution or program. No portion of any educational assistance that is provided for normal living expenses (room and board) shall be considered a reimbursement excludable under this provision.
7. Origination fees and insurance premiums on educational loans; or
8. Dependent care.

i. Amounts excluded for dependent care costs shall not be excluded under the income exclusion for reimbursements at N.J.A.C. 10:87-5.9(a)9iii(3).

ii. Dependent care costs which exceed the amount excludable from income shall be deducted from income in accordance with N.J.A.C. 10:87-5.10(a) 4.

(d) In order to allow an educational income exclusion based on use (as cited in (c) above), the allowable expense must be incurred or anticipated for the period the educational income is intended to cover regardless of when the educational income is actually received. If a student uses other income sources to pay for allowable educational expenses in months before the educational income is received, the exclusions to cover the expenses shall be allowed when the educational income is received. When the amounts used for allowable expense are more than amounts earmarked by the institution, school, program or other grantor, an exclusion shall be allowed for amounts used over the earmarked amounts. Exclusions based on use shall be subtracted from unearned educational income to the extent possible. If the unearned educational income is not enough to cover the expense, the remainder of the allowable expense shall be excluded from any earned educational income.

(e) A student's total educational income exclusions granted under this subchapter cannot exceed that individual's total educational income.

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.

Repeal and New Rule, R.1998 d.498, effective October 5, 1998.

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

Section was "Treatment of educational assistance".

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 at N.J.A.C. 10:87-6.17, 6.18 and 6.19.

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

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

Amended the N.J.A.C. references in the third sentence.

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-

xi. Any allowances or payments provided to individuals participating in programs under the Job Training partnership Act of 1982 (Public Law 97-300) or AmeriCorps/National Community Service Corps (NCSC) Program. 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. Payments received under the Civil Liberties Act of 1988 (P.L. 100-383).

xiv. Amounts deemed necessary for the fulfillment of a Plan for Achieving Self-Support (PASS) under Title XVI of the Social Security Act.

xv. Transitional child care payments made under the Family Support Act of 1988 (JOBS).

xvi. Payments made under the Radiation Exposure Compensation Act (P.L. 100-426).

xvii. All payments from the Agent Orange Compensation Exclusion Act (P.L. 101-201), retroactive to January 1, 1989. Payments made from the Agent Orange settlement fund under Section 10405 of P.L. 101-239 shall be excluded. Veteran's benefits authorized under the Agent Orange Act of 1991 (P.L. 102-4) shall not be excluded by law.

xviii. Payments made to individuals because of their status as victims of Nazi persecution (P.L. 103-286) shall be excluded.

xix. Any payment made to a Food Stamp Employment and Training Program (FSETP) participant under N.J.A.C. 10:87-10.4(c)5 for costs that are reasonably necessary and directly related to participation in FSETP. These costs include, but are not limited to, dependent care costs, transportation, or other expenses related to work, training, or education, such as uniforms, personal safety items, or other necessary equipment, and books or training manuals. These costs shall not include the cost of meals away from home. The value of any dependent care services arranged under N.J.A.C. 10:87-10.4(c) 6 would be excluded.

xx. Governmental foster care payments received by households with foster care individuals who are considered to be boarders under N.J.A.C. 10:87-2.3(b)6.

xxi. On-the-job training payments under the Summer Youth Employment and Training Program.

xxii. Payments made under the Crime Act of 1984 to victims of crime (P.L. 103-322).

xxiii. Payments made under Section 421 of P.L. 104-204 for children of Vietnam veterans who are born with spina bifida.

xxiv. Payments made under Public Law 100-707, the Robert T. Stafford Disaster Relief and Emergency Assistance Act, to pay Disaster Unemployment Assistance to any individual unemployed as a result of a major disaster.

xxv. Payments under the Consolidated Appropriations Act of 2005, Public Law 108-447, regarding any additional payment received by a member of the United States Armed Forces deployed to a designated combat zone. This additional payment shall be excluded from household income for the duration of the members deployment if the additional pay is the result of deployment to or serving in a combat zone, and it was not received immediately prior to serving in the combat zone.

xxvi. Payments under Public Law 109-64, which amended the National Flood Insurance Act of 1968, mandates that payments made under the National Flood Insurance Program (NFIP) for flood mitigation activities shall not be counted as income of the owner of the property when determining eligibility for any Federal means-tested program. In determining eligibility for the Food Stamp Program, CWAs shall exclude as income any payments received by property owners under NFIP.

16. The amount which the representative payee withholds from the funds it receives on behalf of a SSI recipient shall not be counted as income to the SSI recipient for food stamp purposes.

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.

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

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

Rewrote (a).

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

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

Rewrote the section.

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

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

In (a)8, inserted a comma following "individuals"; added (a)8i; and added (a)15xxiv through (a)15xxvi.

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-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 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. The standard deduction, specified at N.J.A.C. 10:87-12.1(a), shall be deducted from income, whether earned or unearned.

2. An amount equal to 20 percent of earned income, as defined at N.J.A.C. 10:87-5.9 shall be deducted.

3. 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 at N.J.A.C. 10:87-2.34. 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. The following items are allowable medical costs:

(1) 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 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 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 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

2.33(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) 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. For migrant and seasonal farm workers, the term initial month means the first month in which the household is certified for a period of more than one month.

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) 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 at N.J.A.C. 10:87-2.33(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 at 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.

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

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

In (a), substituted a reference to N.J.A.C. 10:87-2.33(b)3 for a reference to N.J.A.C. 10:87-2.37(b)3; rewrote (b); in (c), deleted "Determining benefit level for initial month:" from the beginning of first sentence, substituted a reference to N.J.A.C. 10:87-2.33(b)3 for a reference to N.J.A.C. 10:87-2.37(b)3.

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 time frame for providing missing verification, as outlined at N.J.A.C. 10:87-2.19 through 2.24, and the end of the time frame 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).

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

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

In (d), amended the N.J.A.C. reference.

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 at N.J.A.C. 10:87-2.26 and 2.27.

(b) Eligible households may have their initial month's allotment prorated to zero, but be entitled to some benefits in subsequent months. The CWAs must certify the household beginning with the month of application.

(c) 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 exceed the level below which benefits are issued.

(d) A household which is otherwise eligible, based on their gross and net income, may only be entitled to zero benefits. Such a household shall have its application denied.

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.

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

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

In (a), amended the N.J.A.C. references; in (b) and (c), deleted the introductory phrases; added (d).

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 in accordance with N.J.A.C. 10:87-6.20, over which changes in the household's circumstances can be reasonably anticipated.

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.2004 d.181, effective May 17, 2004.

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

Inserted a N.J.A.C. reference and deleted the third sentence.

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. 10:87-6.17 through 6.19).

(b) If the amount of income which will be received, or when it will be received, is uncertain, that portion of the

(b) Since many shelter residents have recently left a household containing the person who has abused them, their former household may be certified for participation in the Food Stamp Program and its certification may be based on a household size that includes the women and children who have just left. Shelter residents who are included in such certified households may nevertheless apply for and (if otherwise eligible) participate in the Food Stamp Program as separate households if such certified household which includes them is the household containing the person who subjected them to abuse. Shelter residents who are included in such certified households may receive an additional allotment as a separate household only once a month.

(c) Shelter residents who have recently left a household containing the person who has abused them are encouraged to apply as a separate household and shall be certified solely on the basis of their income and resources and the expenses for which they are responsible without regard to the income, resources and expenses of their former household.

1. Jointly held resources shall be considered inaccessible if such resources meet the provisions at N.J.A.C. 10:87-4.4(c).

(d) Room payments to the shelter shall be considered as shelter expenses.

(e) Any shelter residents eligible for expedited service shall be handled in accordance with the provisions at N.J.A.C. 10:87-2.32 through 2.35.

(f) CWAs shall take prompt action to ensure that the former household's eligibility or allotment reflects the change in the household's composition. Such action shall include acting on the reported change, as appropriate, and by issuing a notice of adverse action in accordance with N.J.A.C. 10:87-9.5.

New Rule, R.2004 d.181, effective May 17, 2004.

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

Former N.J.A.C. 10:87-7.10, Households with boarders, repealed.

10:87-7.11 Deeming of income and resources of alien sponsors

(a) A sponsored alien is an alien for whom a person (the sponsor) has executed an affidavit of support (Bureau of Citizenship and Immigration Services Form I-864 or I-864A) on behalf of the alien pursuant to section 213A of the INA. Only in the event a sponsored alien is an eligible alien shall the CWA consider available to the household the income and resources of the sponsor and sponsor's spouse.

1. For purposes of determining the eligibility and benefit level of a household of which an eligible sponsored alien is a member, the CWA shall deem the sponsor's income and resources until the alien gains United States citizenship, has worked or can receive credit for 40 qualifying quarters of work, or the sponsor dies.

(b) Procedures for the deeming of income are as follows:

1. The monthly income of the sponsor and sponsor's spouse, if he or she has executed the Bureau of Citizenship and Immigration Services (BCIS) Form I-864 or I-864A, deemed as that of the eligible sponsored alien shall be the total monthly earned and unearned income, taking into consideration allowable exclusions of the sponsored and sponsor's spouse at the time the household containing the sponsored alien member applies or is recertified for participation, reduced by:

i. A 20 percent earned income amount for that portion of the income determined as earned income of the sponsor and the sponsor's spouse; and

ii. An amount equal to the program's monthly gross income eligibility limit 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 the sponsor's spouse as a dependent for Federal income tax purposes (see N.J.A.C. 10:87-12.4).

2. If the alien has already reported gross income information on his or her sponsor in compliance with the sponsored alien rules of another State agency administered assistance program, the CWA may use that income amount for Food Stamp Program deeming purposes. However, the CWA shall limit allowable reductions to the total gross income of the sponsor and the sponsor's spouse prior to attributing an income amount to the alien to the amount specified in (b)1i and ii above.

3. The CWA shall consider as income to the alien any money the sponsor or the sponsor's spouse pays to the eligible sponsored alien, but only to the extent that the money exceeds the amount deemed to the eligible sponsored alien in accordance with (b)1 above.

4. If a sponsored alien can demonstrate to the satisfaction of the CWA that his or her sponsor is the sponsor of other aliens, the CWA shall divide the income and resources deemed at (b)1i and ii above by the number of such sponsored aliens.

(c) Procedure for the deeming of resources is as follows:

1. The CWA shall deem as available to the eligible sponsored alien the total amount of the resources of the sponsor (and sponsor's spouse if applicable) in accordance with N.J.A.C. 10:87-4.3(a)3, reduced by \$1,500.

(d) Until the alien provides information or verification necessary to carry out the provisions of this section, the sponsored alien is ineligible.

1. The CWA shall determine the eligibility of any remaining household members.

2. The CWA shall consider available to the remaining household members the income and resources of the ineligible alien (excluding the deemed income and resources of

the alien's sponsor and sponsor's spouse) in determining the eligibility and benefit level of the remaining household members.

3. If the CWA subsequently receives information or verification, it shall act on the information as a reported change in household membership in accordance with the timeliness standards (reporting changes) at N.J.A.C. 10:87-9.5, as appropriate.

4. If the same sponsor is responsible for the entire household, the entire household is ineligible until such time as the household provides the needed sponsor information or verification.

5. The CWA shall assist aliens in obtaining verification (providing information). For example, if the CWA has access, it can use the Systematic Alien Verification for Entitlements (SAVE) system or it may submit Document Verification Request forms to the local BCIS office.

(e) Procedures on exempt aliens are as follows:

1. Sponsor to immigrant deeming does not apply to the following aliens:

i. Any alien whose sponsor has not signed a legally binding affidavit of support;

ii. Any alien participating in the Food Stamp Program as a member of the sponsor's household;

iii. Any alien sponsored by a group or organization instead of an individual;

iv. Any alien not required to have a sponsor under the Immigration and Nationality Act, such as a refugee, a parolee, an alien granted asylum, or a Cuban or Haitian entrant;

v. An indigent alien that the CWA has determined is unable to obtain food and shelter, taking into account the alien's own income plus any cash, food, housing, or other assistance provided by other individuals, including the sponsor(s). For purposes of this subparagraph, the phrase "is unable to obtain food and shelter" means that the sum of the eligible sponsored alien's household's own income, the cash contributions of the sponsor and others, and the value of any in-kind assistance the sponsor and others provide, does not exceed 130 percent of the gross food stamp eligibility limit for the household's size. The CWA shall determine the amount of income and other assistance provided in the month of application. If the alien is indigent, the only amount that the CWA shall deem to such alien shall be the amount actually provided for a period beginning on the date of such determination and ending 12 months after that date. Each indigence determination is renewable for additional 12-month periods. The CWA shall notify the United States Attorney General with the details of sponsor and alien names for each determination. The information can be reported to: The Attorney General, United States De-

partment of Justice, 950 Pennsylvania Avenue, Washington, DC 20630-0001;

vi. Any sponsored alien, if ineligible for food stamps because of immigration status (that is, is not a qualified alien), the sponsor's income is not deemed to other eligible members of the immigrant's household;

vii. A battered alien spouse, alien parents, alien parent of a battered child, or child of a battered alien, for 12 months after the CWA determines that the battering is substantially connected to the need for benefits, and the battered individual does not live with the batterer as outlined at N.J.A.C. 10:87-3.8(a)7. After 12 months, the CWA shall not deem the batterer's income and resources if the battery is recognized by a court or the BCIS and has substantial connection to the need for benefits, and the alien does not live with the batterer.

(f) 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.

(g) During the period that the alien is subject to deeming, the eligible sponsored alien is responsible for obtaining the cooperation of the sponsor and for providing the CWA at the time of application and at the time of recertification with the information and documentation necessary to calculate deemed income and resources in accordance with this section.

1. The eligible sponsored alien is responsible for providing the names and other identifying factors of other aliens for whom the alien's sponsor has signed an affidavit of support. The CWA shall attribute the entire amount of income and resources to the applicant eligible sponsored alien until he or she provides the information specified under this paragraph.

2. The eligible sponsored alien is responsible for reporting the required information about the sponsor and sponsor's spouse should the alien obtain a different sponsor during the certification period.

3. The eligible sponsored alien is also responsible for reporting, subject to the applicable reporting requirements, a change in income should the sponsor change or lose employment or die during the certification period.

(h) Claims for overissuance are as follows:

1. Any sponsor of an alien and the alien shall be jointly and severally liable for repayment of any overissuance of benefits as a result of incorrect information provided by the sponsor. However, if the alien's sponsor had good cause or 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. 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 the claim.

3. 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 Request for Contact Letter, if appropriate, in accordance with N.J.A.C. 10:87-9.5(c)1. 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 had 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 DFD in accordance with N.J.A.C. 10:87-11.20(w).

4. 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 at N.J.A.C. 10:87-11.20 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 at N.J.A.C. 10:87-11.20(f). These actions shall be taken regardless of the current eligibility of the sponsored alien or the alien's household.

5. The CWA shall exclude any sponsor from restitution who is participating in the Food Stamp Program for the value of food stamp benefits issued to an eligible sponsored alien he or she sponsors.

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.

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

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

In (b)3, added i; and in (c)1, added i.

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

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

In (b)5, substituted a reference to WFNJ/TANF for a reference to AFDC.

Recodified from N.J.A.C. 10:87-7.18 and amended by R.2004 d.181, effective May 17, 2004.

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

Rewrote the section. Former N.J.A.C. 10:87-7.11, Income from the boarder, repealed.

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

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

In (h)1, substituted "benefits" for "coupons".

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.

10:87-7.12 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. 10:87-2.10(e)).

(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 Family Development, 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 EBT issuance 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).

Recodified from N.J.A.C. 10:87-7.19 and amended by R.2004 d.181, effective May 17, 2004.

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

In (a), amended the N.J.A.C. reference; in (b), substituted "Family Development" for "Economic Assistance" following "New Jersey Division of". Former N.J.A.C. 10:87-7.12, Cost of doing business, repealed.

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

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

In (b), substituted "EBT issuance" for "coupon".

10:87-7.13 (Reserved)

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.

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

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

Section was "Deductible expenses".

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 (Reserved)

Recodified to N.J.A.C. 10:87-7.7(a)-(d) by R.2004 d.181, effective May 17, 2004.

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

Section was "Treatment of income and resources of certain nonhousehold members".

10:87-7.15 (Reserved)

Recodified to N.J.A.C. 10:87-7.7(e)-(f) by R.2004 d.181, effective May 17, 2004.

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

Section was "Treatment of income and resources of other nonhousehold members".

10:87-7.16 (Reserved)

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.

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

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

Section was "Residents of drug/alcoholic treatment and rehabilitation programs and group living arrangements".

10:87-7.17 (Reserved)

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).

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

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

Section was "Residents of shelters for battered women and their children".

10:87-7.18 (Reserved)

Recodified to N.J.A.C. 10:87-7.11 by R.2004 d.181, effective May 17, 2004.

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

Section was "Deeming of income and resources of alien sponsors".

10:87-7.19 (Reserved)

Recodified to N.J.A.C. 10:87-7.12 by R.2004 d.181, effective May 17, 2004.

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

Section was "Homeless Food Stamp households and homeless meal providers".

10:87-7.20 (Reserved)

New Rule, R.1998 d.498, effective October 5, 1998.

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

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 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.

Recodified from N.J.A.C. 10:87-8.14 by R.2004 d.181, effective May 17, 2004.

See: 35 N.J.R. 28(a), 36 N.J.R. 2425(a).
Section was Reserved.

10:87-8.14 Household rights

(a) The household shall have the following rights:

1. 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. 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 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 decisions.

Amended by R.1994 d.42, effective January 18, 1994.
See: 25 N.J.R. 4697(b), 26 N.J.R. 377(a).
Recodified from N.J.A.C. 10:87-8.15 and amended by R.2004 d.181, effective May 17, 2004.

See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).
Deleted introductory phrases throughout. Former N.J.A.C. 10:87-8.14, Hearing official, recodified to N.J.A.C. 10:87-8.13.

10:87-8.15 County welfare agency rights at hearing

The CWA shall appoint a representative to appear at the hearing who shall be a CWA representative who is familiar with the case and issue(s) involved in the hearing.

Recodified from N.J.A.C. 10:87-8.16 and amended by R.2004 d.181, effective May 17, 2004.

See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).
Rewrote the section. Former N.J.A.C. 10:87-8.15, Household rights, recodified to N.J.A.C. 10:87-8.14.

10:87-8.16 Decision on fair hearing

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).
Recodified from N.J.A.C. 10:87-8.20 and amended by R.2004 d.181, effective May 17, 2004.
See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

Deleted the introductory phrase. Former N.J.A.C. 10:87-8.16, County welfare agency rights at hearing, recodified to N.J.A.C. 10:87-8.15.

10:87-8.17 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.

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".
Recodified from N.J.A.C. 10:87-8.21 by R.2004 d.181, effective May 17, 2004.
See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).
Section was Reserved.

10:87-8.18 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.

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".
Recodified from N.J.A.C. 10:87-8.22 by R.2004 d.181, effective May 17, 2004.
See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).
Section was Reserved.

10:87-8.19 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)).

Recodified from N.J.A.C. 10:87-8.24 by R.2004 d.181, effective May 17, 2004.

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

10:87-8.20 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.

Recodified from N.J.A.C. 10:87-8.25 by R.2004 d.181, effective May 17, 2004.

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

Former N.J.A.C. 10:87-8.20, Decision on fair hearing, recodified to N.J.A.C. 10:87-8.16.

10:87-8.21 CWA responsibilities; fair hearings

(a) 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) 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) Decisions which result in an increase in household benefits shall be reflected in the benefit allotment within 10 days of the receipt of the hearing decision even if a supplementary benefit must be issued.

1. 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) Decisions which result in a decrease in household benefits shall be reflected in the next scheduled issuance following receipt of the hearing decision.

(e) 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).

Recodified from N.J.A.C. 8:27-8.26 by R.2004 d.181, effective May 17, 2004.

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

Deleted introductory phrases throughout; in (a) and (b), amended the N.J.A.C. references; in (c), substituted "benefit" for "ATP" in the introductory paragraph. Former N.J.A.C. 8:27-8.21, Retention of record, recodified to N.J.A.C. 8:27-8.17.

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

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

In (c), substituted "benefit" for "coupon".

10:87-8.22 (Reserved)

Recodified to N.J.A.C. 10:87-8.18 by R.2004 d.181, effective May 17, 2004.

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

Section was "Prospective or retroactive action".

10:87-8.23 (Reserved)

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

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

Section was "Synopsis of decision".

10:87-8.24 (Reserved)

Recodified to N.J.A.C. 10:87-8.19 by R.2004 d.181, effective May 17, 2004.

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

Section was "Corrective measures".

10:87-8.25 (Reserved)

Recodified to N.J.A.C. 10:87-8.20 by R.2004 d.181, effective May 17, 2004.

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

Section was "Final administrative action".

10:87-8.26 (Reserved)

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).

Recodified to N.J.A.C. 10:87-8.21 by R.2004 d.181, effective May 17, 2004.

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

Section was "CWA responsibilities; fair hearings".

SUBCHAPTER 9. CERTIFICATION RELATED PROCEDURES

10:87-9.1 Recertification

(a) No household may participate beyond the expiration of the certification period assigned in accordance with N.J.A.C. 10:87-6.20 without a determination of eligibility for a new period. Households shall apply for recertification and shall comply with interview and verification requirements.

(b) The CWA shall provide households certified for one month or certified in the second month of a two-month certification period a notice of expiration (NOE) at the time of certification. The CWA shall provide other households the NOE before the first day of the last month of the certification period, but not before the first day of the next-to-the-last month. Jointly-processed WFNJ households need not receive a separate food stamp notice if they are recertified for food stamps at the same time as their WFNJ redetermination.

(c) The Notice of Expiration (NOE) shall contain the following:

1. The date the certification period expires;
2. The date by which a household must submit an application for recertification in order to receive uninterrupted benefits;
3. The consequences of failure to apply for recertification in a timely manner;

4. Notice of the right to receive an application form upon request and to have it accepted as long as it contains a signature and a legible name and address;

5. Information on alternative submission methods available to households which cannot come into the certification office or do not have an authorized representative and how to exercise these options;

6. The address of the office where the application must be filed;

7. The household's right to request a fair hearing if the recertification is denied or if the household objects to the benefit issuance;

8. Notice that any household consisting only of SSI applicants or recipients is entitled to apply for food stamp recertification at an office of the Social Security Administration (SSA);

9. Notice that failure to attend an interview may result in delay or denial of benefits; and

10. Notice that the household is responsible for rescheduling a missed interview and for providing required verification information.

(d) To expedite the recertification process, CWAs are encouraged to send a recertification application, an interview appointment letter, and a notice of verification (FSP-33) required at N.J.A.C. 10:87-2.22(d)3 with the NOE. The CWA may request that the household bring the application form to the interview or return the form by a specified date (not less than 15 days after receipt of the form).

(e) As part of the recertification process, the CWA shall conduct a face-to-face interview with a member of each household. The face-to-face interview may be waived in accordance with N.J.A.C. 10:87-2.18(e). The CWA may also waive the face-to-face interview for a household that has no earned income if all of its members are elderly or disabled. The CWA has the option of conducting a telephone interview or a home visit for those households for whom the office interview is waived. However, a household that requests a face-to-face interview must be granted one.

(f) If a household receives WFNJ and will be certified for food stamps more than once in a 12-month period, the CWA may choose to conduct a face-to-face interview with that household only once during that period. The face-to-face interview shall be conducted at the same time that the household receives a face-to-face interview for WFNJ purposes. At any other recertification during that yearly period, the CWA may interview the household by telephone, conduct a home visit, or recertify the household by mail.

(g) The CWA may schedule the interview prior to the application filing date, provided that the household's application is not denied at the time for failure to appear for the interview. The CWA shall schedule the interview on or after the date the application was filed if the interview has not been

previously scheduled, or the household has failed to appear for any interviews scheduled prior to this time and has requested another interview. CWAs shall schedule interviews so that the household has at least 10 days after the interview in which to provide verification before the certification period expires.

(h) Information provided by the household shall be verified in accordance with N.J.A.C. 10:87-2.19 and 2.20. The CWA shall provide the household a notice of required verification as provided at N.J.A.C. 10:87-2.22(d)3, and notify the household of the date by which the verification requirements must be satisfied. The household must be allowed a minimum of 10 calendar days to provide required verification information. Any household whose eligibility is not determined by the end of its current certification period due to the time period allowed for submitting any missing verification shall receive an opportunity to participate, if eligible, within five working days after the household submits the missing verification.

(i) Households reporting required changes in circumstances that are either certified for one month, or are certified in the second month of a two-month certification period, shall have 15 days from the date the NOE is received to file a timely application for recertification.

(j) Other households reporting required changes in circumstances that submit applications by the 15th day of the last month of the certification period shall be considered to have made a timely application for recertification.

(k) For households consisting only of SSI applications or recipients who apply for food stamp recertification at SSA offices in accordance with N.J.A.C. 10:87-2.33, an application shall be considered filed for normal processing purposes when the signed application is received by the SSA.

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.
Repeal and New Rule, R.1998 d.498, effective October 5, 1998.
See: 30 N.J.R. 1928(a), 30 N.J.R. 3669(b).

Section was "Recertification".
Amended by R.2004 d.181, effective May 17, 2004.
See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

Amended N.J.A.C. references throughout; in (d), substituted "notice of" for "FSP-33 statement of needed" preceding "verification" and inserted "(FSP-33)" following "verification".

10:87-9.2 Recertification application processing

(a) Households that were certified for two months in the second month of the certification period and have met all required application procedures shall be notified of their eligibility or ineligibility. Eligible households shall be provided an opportunity to receive benefits no later than 30 calendar days after the date the household received its last allotment.

(b) Other households that have met all application requirements shall be notified of their eligibility or ineligibility by the end of their current certification period. In addition, the CWA shall provide households that are determined eligible an opportunity to participate by the household's normal issuance cycle in the month following the end of its current certification period.

(c) Delays in recertification application processing shall be handled as follows:

1. Households which have submitted an application for recertification in a timely manner but, due to CWA error, are not determined eligible in sufficient time to provide for issuance of benefits by the household's next normal issuance date shall receive an immediate opportunity to participate upon being determined eligible, and the allotment shall not be prorated.

2. If the household was unable to participate for the month following the expiration of the certification period because of CWA error, the household is entitled to restored benefits.

3. If a household does not submit a new application by the end of the certification period, the CWA shall close the case without further action.

4. Except for migrant or seasonal farm workers, if a recertification form is submitted after the end of the certification period, it shall be treated the same as an application for initial certification in accordance with N.J.A.C. 10:87-6.2(b).

5. A household which submits an application by the filing deadline but neither appears for an interview scheduled after the application has been filed, nor submits verification within the required time frame, shall lose its right to uninterrupted benefits. The CWA shall deny the household's recertification application at the end of the last month of the current certification period. The CWA may, on a county-wide basis, either require households to submit new applications to continue benefits or reinstate the households without requiring new applications if the households have been interviewed and have provided the required verification information within 30 days after the applications have been denied.

(d) A CWA is required to apply the expedited service provisions of N.J.A.C. 10:87-2.28 at recertification if the household applies for recertification and meets the criteria for expedited service.

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.
Repeal and New Rule, R.1998 d.498, effective October 5, 1998.
See: 30 N.J.R. 1928(a), 30 N.J.R. 3669(b).

Section was "CWA action on timely application for recertification".
Amended by R.2004 d.181, effective May 17, 2004.

See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).
Rewrote (c)4 and (d).

10:87-9.3 Notices 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) In cases where a household's application is approved on an expedited basis without verification, as provided at N.J.A.C. 10:87-2.28 through 2.30 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 at N.J.A.C. 10:87-2.30(a)3 and the consequences of failure to provide the postponed verification.

(c) For those PA/FS households assigned definite certification periods in accordance with N.J.A.C. 10:87-6.23, the notice shall state that the certification will expire the month following the month the household's WFNJ/TANF 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.

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

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

In (c), substituted a reference to WFNJ/TANF a for reference to AFDC.

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

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

In (b) and (c), deleted the introductory phrases and amended N.J.A.C. references throughout.

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

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

In (c), substituted "PA/FS" for "PA".

10:87-9.4 Recertification/denial 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, 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. The CWA shall follow the procedures at N.J.A.C. 10:87-2.27(e).

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).

Amended by R.1998 d.498, effective October 5, 1998.
See: 30 N.J.R. 1928(a), 30 N.J.R. 3669(b).

Rewrote (c).

Amended by R.2004 d.181, effective May 17, 2004.
See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

In (c), amended the N.J.A.C. reference.

10:87-9.5 Changes

(a) When changes occur within the certification period which affect a household's eligibility or benefit allotment, action must be taken to adjust the household's eligibility.

(b) Household responsibilities are as follows:

1. Certified households are required to report the following changes within 10 days of the date the change becomes known to the household:

i. All households, except those identified at i(1) below, are assigned a six-month certification period and are only required to report changes of total household income which result in a total monthly income that exceeds 130 percent of the Federal poverty level, which is the maximum food stamp gross income eligibility limit. This is the only required reportable change that these recipients must report during the six-month period.

(1) All households, except the following, are on six-month reporting: WFNJ/TANF recipients with no earned income, migrant and seasonal farm workers, able-bodied adults without dependents (ABAWDS) with no earned income, the elderly and/or disabled with no earned income, and homeless individuals.

ii. Households not eligible for six-month reporting shall be required to report the following:

(1) Households shall report new employment within 10 days of the date that they receive their first pay.

(2) Households shall report changes in the source of unearned income, or in the amount of gross unearned income of more than \$50.00, except changes in either the WFNJ/TANF grant, or the WFNJ/GA grant where the CWA is administering the WFNJ/GA program for the locality in which the recipient resides.

(3) Households shall report changes in gross earned income only if the change involves a change in source of income, hourly rate or salary, or in employment status from full-time to part-time or vice versa. Such households shall not be certified for longer than six months.

(4) 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);

(5) Changes in residence and the resulting change in shelter costs;

(6) The acquisition of a licensed vehicle not fully excludable at N.J.A.C. 10:87-4.12(a)1; and

(7) 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 or disabled.

(8) All households are required to report changes in legal obligation including, but not limited to, changes such as a child reaching an age limit at which child support is no longer legally obligated, or a change in the legally obligated amount. Households are not required to report changes in the amount of child support it pays.

2. The change may be reported in person, by telephone, electronically 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, electronically, by mail 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 data fax number, an e-mail address, 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 contact numbers shall be identified on the Request for Contact Letters, Change Report Forms and Notices of Adverse Action which the CWAs issue.

3. If the CWA discovers that the household failed to report a change as required by (b) 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. 10:87-11.20. 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 required change, unless the individual is disqualified in accordance with the intentional program disqualification procedure specified at N.J.A.C. 10:87-11.2.

4. Households may, but are not required to, report any changes in medical expenses which occur subsequent to certification. If a household voluntarily reports a change in medical expenses and provides necessary verification, the change shall be acted upon in accordance with the provisions at N.J.A.C. 10:87-9.5(c)3 for both increases and decreases in benefits.

i. If the household reports a change which would increase benefits, but does not provide verification to substantiate the reported change, then the change shall not be acted upon until such verification is provided.

ii. If, during the certification period, the CWA becomes aware of a change in medical expenses from a source other than the household, the CWA shall act on the change if verification is available from the source, and the CWA can act on it without contacting the household for additional information or verification. If the change would require the CWA to contact the household, the CWA shall not act on the change during the certification period.

(c) The CWA shall not impose any food stamp reporting requirement on households, except as noted in (b) 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. During the household's certification period, when a CWA obtains information about changes in a household's circumstances but is unable to adjust the household's benefit without requesting written clarification, the Request for Contact (RFC) Letter shall be utilized. The RFC shall only be used when the CWA already has information about the household that needs further clarification. If the CWA does not have any information that requires further contact with the household, CWAs are prohibited from contacting the household until the next recertification, unless it is to refer them to appropriate employment and training activities.

i. If the household responds to the RFC, the CWA shall act on the new circumstances in accordance with (c)3 below.

ii. If the household does not respond to the RFC, or responds but fails to provide sufficient information to clarify its circumstances, the CWA shall take appropriate action, that is, issue a notice of adverse action, closing the case. As an alternate action, the CWA may choose to suspend the case for one month before closing it.

2. The appropriate change report form (FSP 922 or 922A) and an IMFS 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.

3. 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, and for those households not on six-month reporting, provide another change report form (FSP-922) to the household. The CWA shall notify any 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. 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 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. 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 benefit by the 10th day of the following month.

(1) 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.

close the case. However, if mail returned indicates a forwarding address, the CWA shall send an RFC in accordance with (c)1 above.

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.

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

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

Rewrote (b); in (c)2ii, deleted a former (1), and recodified former (2) and (3) as (1) and (2); in (k), added ", provided that the CWA had previously instructed the household of its fair hearing rights, the date that allotment reduction would become effective, and the allotment which the household would receive after allotment reduction had begun" at the end of the first sentence of 6, and added 13; and added (l).

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

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

Substituted references to WFNJ/TANF for references to AFDC throughout; rewrote (f); and in (k), deleted a reference to (f) in the introductory paragraph.

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

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

Rewrote the section.

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

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

In (c), substituted "households" for "household", and inserted "in (b)"; in (c)4, inserted "mass" and substituted "Federally-" for "federally"; in (d), substituted "Food Stamp Program changes" for "These" and "Federally-" for "federally"; and in (k)9, substituted "The individual is a resident of a substance abuse treatment center" for "Residents of a treatment center".

10:87-9.6 Identification (ID) cards

At its option, the CWA may 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 food stamp benefits are issued.

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.

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

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

Rewrote the section.

10:87-9.7 Families First Program cards

(a) The Families First Program is the mandatory method of distributing Food Stamp Program benefits to eligible households. Families First eliminates the need for the issuance of food stamp ATP documents and food stamp coupons by the CWAs. Families First utilizes a technology called Electronic Benefits Transfer (EBT). In EBT, each payee is issued a magnetic-stripe plastic card which the payee uses to access his or her benefits. This card is called the Families First card.

(b) All provisions and standards applicable to the Families First Program can be found at N.J.A.C. 10:88 (Families First Manual).

(c) The Families First card is not proof of Medicaid eligibility.

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.

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

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

In (a)2, inserted "when the validity period of the household's ATP has expired and the household had an opportunity to negotiate the ATP," following "misfortune,"; and added (j).

Repeal and New Rule, R.2004 d.181, effective May 17, 2004.

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

Section was "Replacement of benefits".

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 Replacement of benefits

(a) Food stamp benefits shall not be replaced once they are posted to a household's Families First account.

(b) Households shall not receive a replacement for any food stamp benefits which were accessed using the client's Families First card and secret Personal Identification Number (PIN).

(c) CWAs shall provide a replacement benefit to a household when the household reports that food purchased with food stamp benefits was destroyed in a household misfortune.

(d) Rules on providing the replacement benefits cited in (c) above are as follows:

1. Replacement of food purchased with food stamp benefits destroyed in a household misfortune shall be provided only if a household timely reports a loss orally or in writing to the CWA. The report shall be considered timely if it is made to the CWA within 10 calendar days of the date the food was destroyed.

2. Prior to replacing 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 Red Cross, or a home visit.

3. Prior to issuing such a replacement benefit, the CWA shall obtain from a member of the household a signed statement attesting to the household's loss. 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.

i. If the signed statement or affidavit is not received by the CWA within 10 calendar days from 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.

ii. The statement shall be retained in the case record and it shall attest to the household misfortune. The statement shall also state that the household is not eligible for this replacement benefit and must notify the CWA if the food that was destroyed has been, or is expected to be, recovered by the household through another means, such as a charity kitchen or food pantry. The statement shall further attest that the household is aware of the penalties for intentional misrepresentation of the facts including, but not limited to, a charge for perjury for a false claim.

4. A replacement benefit for food purchased with food stamps that was destroyed in a household misfortune shall

be made available by the CWA to the eligible household within 10 days after report of the loss or within two working days of receipt of the household's signed statement required in (d)3 above, whichever date is later.

i. The CWA shall deny or delay such a replacement benefit in cases where available documentation indicates that the household's request for the food replacement benefit appears to be fraudulent.

(1) The household shall be informed of its right to a fair hearing to contest the denial or delay of a food replacement benefit. Replacements shall not be made while the denial or delay is being appealed.

5. No limit on the number of replacements shall be placed on the replacement of food purchased with food stamp benefits which was destroyed in a household misfortune.

6. Replacement of food stamp benefits shall be made available to the household in an amount not to exceed the value of the food purchased with food stamp benefits that was destroyed (up to a maximum of one month's allotment, unless the issuance includes restored benefits which shall be replaced up to their full value).

7. 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.

(e) In the event of a major disaster declaration by the FNS, CWAs in counties affected by the declaration are authorized to provide emergency food stamp allotments. Those allotments are intended only for households that are participating in the Food Stamp Program at the time of the disaster, and shall replace a household's food which is lost due to the disaster. Such emergency allotments shall be equal to the estimated value of the food lost in the disaster, but shall not be greater than the applicable maximum benefit allotment for the household's size (see N.J.A.C. 10:87-12.2). Such households are not entitled to both a disaster emergency allotment and a replacement due to food lost in an individual household misfortune (see N.J.A.C. 10:87-9.8(d)7).

New Rule, R.2004 d.181, effective May 17, 2004.

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

Former N.J.A.C. 10:87-9.8, Miscellaneous administrative procedures, recodified to N.J.A.C. 10:87-9.11.

10:87-9.9 Credit adjustments to food stamp benefit accounts

(a) Food stamp benefits shall be returned to a participant in the form of a credit to the household's Families First account if a retailer overcharges the payee. The payee should report such an instance immediately to the EBT Customer Service Hotline which is available 24 hours a day, seven days a week.

1. A credit adjustment transaction shall be provided only if a household timely reports such an overcharge to the EBT Customer Service Hotline within 90 days of the transaction date and research documents that an overcharge occurred.

2. If it has been determined that the household was overcharged by a food retailer, then the refunded benefit will appear as a credit in the amount that was overcharged.

3. If it has been determined that the household was not overcharged by the retailer, the participant shall be informed in writing and supporting documentation shall be provided as applicable.

(b) Additional information concerning adjustments to a household's food stamp account can be found at N.J.A.C. 10:88-3.8.

New Rule, R.2004 d.181, effective May 17, 2004.

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

Former N.J.A.C. 10:87-9.9, Case records, recodified to N.J.A.C. 10:87-9.12.

Administrative correction.

See: 40 N.J.R. 1663(a).

10:87-9.10 Replacement of lost/stolen Families First cards

Replacement of Families First cards shall be made available no later than two business days from the date that the loss is reported to the CWA. Since payees, as part of the card replacement procedure, shall visit the CWA's Card Issuance Site (CIS) in order to select a new PIN, it is critical that payees be referred to the CIS in an expedited manner.

New Rule, R.2004 d.181, effective May 17, 2004.

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

Former N.J.A.C. 10:87-9.10, Security and control of ATPs, recodified to N.J.A.C. 10:87-9.13.

10:87-9.11 Miscellaneous administrative procedures

(a) The CWA shall provide qualified employees as necessary to insure prompt and correct action on all applications. If necessary, staff shall be employed as required by DFD pursuant to FNS bilingual staffing requirements as well as for serving those with limited English proficiency and/or disabilities. Only such qualified employees shall interview applicants and determine the household's eligibility or ineligibility and food stamp benefit amount. Additionally, unless prior approval is obtained from DFD, 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 Families First card stock or other issuance material and documents.

(b) 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. 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. If requested to do so by the applicant, a volunteer may assist the household in completing relevant forms and in securing needed verification.

3. If a household is unable to apply for benefits in person, a volunteer may serve as an authorized representative for that household provided the volunteer has been designated as such by the head of household, spouse, or any other responsible member of the household.

(c) Customer service standards are as follows:

1. County agencies shall ensure that services are provided in a prompt and courteous manner to all customers, including those with limited English proficiency, as well as, those with disabilities.

2. County agencies shall provide interpreter services to those customers with limited English proficiency, as well as, to those with disabilities.

3. County agencies shall have a system in place to ensure that telephone calls are answered promptly and courteously, and routed to the proper person.

i. Phone etiquette shall include:

(1) Using appropriate salutation;

(2) Worker shall identify self;

(3) Callers shall be asked for their permission before being put on hold;

(4) Holds shall be activated with courtesy word or phrase;

(5) When ready, recall the caller to the conversation by speaking his or her name as a question; and

(6) Thank the caller for waiting.

ii. For agencies with a voicemail system, the agency shall ensure that:

(1) All messages are retrieved and responded to within one working day;

(2) Callers have an opportunity to speak to an agency employee instead of voicemail; and

(3) Voicemail shall include information on what to do in an emergency.

4. County agencies shall include customer service training as part of its new employee orientation when identified in the customer service surveys and as addressed in the corrective action plan. Such training shall include

cultural diversity, civil rights requirements and conflict resolution.

5. County agencies shall implement a process to monitor customer waiting time and have established standard acceptable lengths of waiting time.

6. County agencies shall conduct customer service surveys.

7. County agencies shall have a system in place to analyze data from available sources to assess customer service.

8. County agencies shall have a customer service improvement plan.

9. County agencies shall have a system in place to monitor the implementation of the customer service improvement plan and assess the effectiveness of the plan.

10. County agencies shall provide food stamp information flyers to all persons who express an interest in the food stamp program.

11. County agencies shall ensure waiting rooms are clean and provide sufficient seating.

12. County agencies shall ensure access for private conversation with receptionist or other screening staff.

13. County agencies shall display "And Justice for All" posters.

14. County agencies shall display all required postings.

15. County agencies shall have in place a means for customers to drop off documents without a wait.

16. Customers shall have ready access to clean, safe and secure restrooms.

17. All customer interviews shall be conducted in area(s) that ensure privacy with minimal interruptions.

(d) 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.

(e) Each CWA is responsible for the timely and accurate issuance of benefits to certified households. The Division of Family Development 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. Families First cards are accepted and stored with adequate security after delivery to receiving points within the county; and

5. Food stamp benefit and reconciliation activities are conducted timely and accurately.

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".

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.

Recodified from N.J.A.C. 10:87-9.8 and amended by R.2004 d.181, effective May 17, 2004.

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

Rewrote the section. Former 10:87-9.11 was reserved.

10:87-9.12 Case records

(a) The CWA shall keep such records and other information as may be required by FNS and the DFD.

(b) Case records shall be available for review or audit by FNS and the Division of Family Development for a period of three years from the date of last activity of each record.

(c) 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; and any other data which affects a household's eligibility or basis of issuance.

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".

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).

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) 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 LWD 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. Registrants shall contact, as required by LWD, 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. 10:87-10.10.

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 LWD 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 LWD office.

i. Twice during the eight week job search period the work registrant shall report at a prescheduled time to the LWD worker, the result of all job search contacts. If the eight week job search activity is divided into two separate periods, the LWD worker may require the reg-

istrant to report once during each period of job search activity.

ii. Job contacts shall be reported in writing in a manner prescribed by LWD. At the time of the initial interview with the LWD 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 LWD worker at the work registrant's follow-up interview. The registrant shall be responsible for providing LWD, upon reasonable request, any additional information regarding job contacts.

(e) The LWD 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 LWD 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 LWD determination is improper, review of the determination may be obtained from a designated LWD 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 LWD determination that noncompliance was not for good cause.

(f) A complete file on each work registrant shall be maintained by the LWD 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).

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

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

Substituted references to DOL for references to FSETP throughout; rewrote (a); in (b), substituted a reference to DOL activity for a reference to E&T activity in the introductory paragraph; and in (c)2, substituted a reference to the DOL office location for a reference to the E&T location. Recodified from N.J.A.C. 10:87-10.17 and amended by R.2004 d.181, effective May 17, 2004.

See: 35 N.J.R. 28(a), 36 N.J.R. 2425(a).

Deleted the introductory phrases throughout; in (d)1ii, amended the N.J.A.C. reference. Former N.J.A.C. 10:87-10.12, Verification of voluntary quit and good cause, recodified to N.J.A.C. 10:87-10.7.

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

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

Substituted "LWD" for "DOL" throughout; and rewrote (c)1.

10:87-10.13 Job search training component

(a) 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.

Recodified from N.J.A.C. 10:87-10.18 and amended by R.2004 d.181, effective May 17, 2004.

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

In (a), deleted the introductory phrase. Former N.J.A.C. 10:87-10.13, Rules on ending a voluntary quit disqualification, recodified to N.J.A.C. 10:87-10.8.

10:87-10.14 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 to other educational development, skill training or vocational training, as appropriate.

(b) Vocational training may be offered through classroom training arranged by the Workforce Investment Act of 1998 (WIA), and designed to train workers in occupations for which demand exceeds supply.

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).

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

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

In (a), substituted a reference to DOL for a reference to FSETP; and deleted former (c) and (d).

Recodified from N.J.A.C. 10:87-10.19 and amended by R.2004 d.181, effective May 17, 2004.

See: 35 N.J.R. 28(a), 36 N.J.R. 2425(a).

Rewrote (a); in (b) substituted "the Workforce Investment Act of 1998 (WIA)" for "JTPA". Former 10:87-10.4 was reserved.

10:87-10.15 Failure to comply with employment and training requirements

(a) If the individual fails to comply with a work registration or an FSETP component requirement, without good cause, the appropriate FSETP worker shall perform the following actions:

1. When the individual fails to comply with an FSETP requirement, a conciliation period of 30 days commences on the day following the date of noncompliance. The FSETP worker shall determine, within 20 days of the date of the noncompliance, whether the individual has either satisfied the terms of compliance, or has good cause for noncompliance. The individual shall be granted an opportunity to comply with the activity which he or she failed to initially perform. A Notification of Intention to Impose a Food Stamp Penalty shall be issued to the individual at the start of the conciliation period which advises the individual of the noncompliance, and the need to contact his or her FSETP worker within 10 calendar days of the date of the notice.

2. A lack of response to the client notification form shall be considered as a refusal to participate without good cause. If LWD is making the non-cooperation determination, then the LWD office shall notify the CWA, in writing, within five working days that the individual has not complied with an FSETP requirement. This action shall result in the CWA moving forward to impose the original sanction.

3. When a client does respond to the client notification form by contacting the FSETP worker and agreeing to meet with the FSETP worker but subsequently fails to attend the interview, that action shall be considered a refusal to cooperate without good cause. Such a failure to attend the interview shall result in the CWA moving forward to impose the original sanction.

i. The imposition of the original sanction requires a 10-day adverse action notice. Under no circumstances shall a failure to respond to the client notification form or to attend a scheduled interview result in movement to the next level sanction.

4. When response to the client notification form results in an agreement to begin a new activity or continue with the previously assigned activity, no further action shall be taken to impose the sanction.

5. If the client fails, without good cause, to begin and/or continue participating in the assigned activity, another client notification form shall not be sent. In this situation, the sanction process shall begin immediately with the client being sent a 10-day adverse action notice.

(b) Within 10 days after the FSETP worker provides notification of failure to comply with or respond to the client notification form, the CWA shall provide the individual with notice of adverse action and begin the disqualification period in accordance with the provisions of N.J.A.C. 10:87-10.16.

1. The following information shall be provided in the 10-day adverse action notice:

- i. Reminder of the recent promise to begin or continue participation in the assigned activity;
- ii. A description of the noncooperation;
- iii. Announcement of the imposition of the sanction, the penalty and the duration; and
- iv. Encouragement to cooperate before the case closes.

2. 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/LWD determination of failure to comply with the work registration and/or work and training requirements of this subchapter (see N.J.A.C. 10:87-10.17).

3. If the individual who committed the violation is the head of household, a new head of household shall be determined in accordance with the provisions at N.J.A.C. 10:87-2.6.

4. If the individual who committed the violation is the only adult member of the household able to act on its behalf and the CWA has determined that no one else is available to serve as an authorized representative, then the disqualified household member may serve as an authorized representative in accordance with N.J.A.C. 10:87-2.10.

(c) A FS recipient subject to the ABAWDS provisions, who is in his or her third month of receiving FS benefits without having met the work requirements, shall not be entitled to any further FS benefits without reestablishing eligibility in accordance with N.J.A.C. 10:87-10.20.

1. Good cause shall not exist for a FS recipient who is subject to the ABAWDS provisions and who has received three months of FS benefits while not participating as required.

2. In the situation described at (c) above, use of the Notification of Intention to Impose a Food Stamp Penalty

form is not required. Such individuals shall be sent a notice of adverse action informing them that their FS benefits will be terminated or denied, as applicable to the household's situation. These individuals shall be referred to LWD, which can provide services and activities for the ABAWD to reestablish eligibility in accordance with N.J.A.C. 10:87-10.20(d).

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).

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

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

Rewrote (a); and in (b), substituted references to DOL for references to FSETP throughout.

Recodified from N.J.A.C. 10:87-10.20 and amended by R.2004 d.181, effective May 17, 2004.

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

Rewrote the section. Former N.J.A.C. 10:87-10.15, Unsuitable employment, recodified to N.J.A.C. 10:87-10.10.

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

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

Substituted "LWD" for "DOL" throughout.

10:87-10.16 Penalty for noncompliance with employment and training requirements

(a) If the CWA determines that an individual has refused or failed to comply with the requirements imposed by this subchapter, that individual shall be ineligible to participate in the Food Stamp Program as described below, and is treated as an ineligible household member in accordance with N.J.A.C. 10:87-7.7.

1. The first violation results in a disqualification of either one month, or until the individual complies with the work registration or FSETP requirement which he or she failed to perform, whichever is later.

2. The second violation results in a disqualification of either three months, or until the individual complies with the work registration or FSETP requirement which he or she failed to perform, whichever is later.

3. The third and subsequent violations result in a disqualification of either six months, or until the individual complies with the work registration or FSETP requirement which he or she failed to perform, whichever is later.

(b) The period of ineligibility shall be removed if the individual becomes exempt from work registration through the provisions at N.J.A.C. 10:87-10.2 other than the exemptions at N.J.A.C. 10:87-10.2(b) (exemption due to receipt of UIB) or N.J.A.C. 10:87-10.2(b)7 (exemption due to compliance with a WFNJ/TANF work or training requirement).

(c) Should a household which has been determined to be noncompliant without good cause split into more than one household, the disqualification shall follow the member who caused the disqualification. If the member who failed to comply joins another household the individual shall be considered an ineligible household member in accordance with N.J.A.C. 10:87-7.7.

(d) The CWA shall determine whether good cause for non-compliance exists in accordance with N.J.A.C. 10:87-10.18.

(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.

Amended by R.1998 d.498, effective October 5, 1998.
See: 30 N.J.R. 1928(a), 30 N.J.R. 3669(b).

Rewrote (a) and (b); and in (c), added "or until the individual complies with the work registration or ETP requirement which he or she failed to perform, whichever is greater" at the end of the second sentence.

Recodified from N.J.A.C. 10:87-10.21 and amended by R.2004 d.181, effective May 17, 2004.

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

Rewrote (a) and (c). Former N.J.A.C. 10:87-10.16, Strikers, recodified to N.J.A.C. 10:87-10.11.

Amended by R.2007 d.129, effective May 7, 2007.
See: 38 N.J.R. 4374(a), 39 N.J.R. 1719(a).

Substituted "disqualification" for "sanction" throughout.

Cross References

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

10:87-10.17 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 registration 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 LWD actions such as exemption status, the type of requirement imposed, or CWA or LWD 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) If the hearing involves a decision made by the LWD, the CWA shall provide sufficient advance notice to LWD 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 LWD 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 LWD.

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.
Amended by R.1998 d.498, effective October 5, 1998.
See: 30 N.J.R. 1928(a), 30 N.J.R. 3669(b).

In (b) and (e), substituted references to DOL for references to FSETP throughout; and rewrote (c).

Recodified from N.J.A.C. 10:87-10.22 by R.2004 d.181, effective May 17, 2004.

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

Former N.J.A.C. 10:87-10.17, Job search components, recodified to N.J.A.C. 10:87-10.12.

Amended by R.2007 d.129, effective May 7, 2007.
See: 38 N.J.R. 4374(a), 39 N.J.R. 1719(a).

Substituted "LWD" for "DOL" throughout.

10:87-10.18 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 for noncompliance shall include circumstances such as, but not limited to, the illness of the registrant or another household member, 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 with limited English proficiency would have good cause for not appearing for a LWD interview if the

10:87-10.21 (Reserved)

Repealed by R.2004 d.181, effective May 17, 2004.
See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

Section was "Penalty for noncompliance with employment and training requirements".

10:87-10.22 (Reserved)

Repealed by R.2004 d.181, effective May 17, 2004.
See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

Section was "Fair hearings".

10:87-10.23 (Reserved)

Repealed by R.2004 d.181, effective May 17, 2004.
See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

Section was "Good cause for noncompliance".

10:87-10.24 (Reserved)

Repealed by R.2004 d.181, effective May 17, 2004.
See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

Section was "Ending disqualification".

10:87-10.25 (Reserved)

Repealed by R.2004 d.181, effective May 17, 2004.
See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

Section was "Mandatory work activity for able-bodied adults without dependents (ABAWDS)."

SUBCHAPTER 11. INCORRECT ISSUANCE**10:87-11.1 Disqualification for intentional program violation—administrative responsibility**

(a) The CWA shall be responsible for investigating any case of alleged intentional program violation (IPV), and ensuring that appropriate cases are acted upon either through administrative disqualification hearings or referral to a court of appropriate jurisdiction in accordance with the procedures outlined in this subchapter. Administrative disqualification procedures or referral for prosecution action shall be initiated by the CWA in cases in which the CWA has sufficient documentary evidence to substantiate that an individual has intentionally made one or more acts of IPV as defined at N.J.A.C. 10:87-11.3(a).

(b) If the CWA does not initiate administrative disqualification procedures or refer for prosecution a case involving an overissuance caused by a suspected act of IPV, the CWA shall take action to collect the overissuance by establishing an inadvertent household error claim against the household in accordance with procedures at N.J.A.C. 10:87-11.20(e)2.

(c) The CWA shall refer to the Division's Bureau of Administrative Review and Appeals administrative disqualification hearings cases in which the CWA believes the facts of the individual case do not warrant civil or criminal prosecution through the appropriate court system, cases previously referred for prosecution that were declined by the appropriate legal authority, and previously referred cases

where no action was taken within a reasonable period of time and the referral was formally withdrawn by the CWA.

(d) The CWA shall not initiate an administrative disqualification hearing against an accused individual whose case is currently being referred for prosecution or subsequent to any action taken against the accused individual by the prosecutor or court of appropriate jurisdiction, if the factual issues of the case arise out of the same, or related, circumstances.

(e) The CWA may initiate administrative disqualification procedures or refer a case for prosecution regardless of the current eligibility of the individual.

(f) The CWA has the option of allowing accused individuals either to waive their rights to administrative disqualification hearings in accordance with N.J.A.C. 10:87-11.5 or to sign disqualification consent agreements for cases of deferred adjudication in accordance with N.J.A.C. 10:87-11.5. CWAs may base administrative disqualifications for IPV on the waived right to an administrative disqualification hearing or on the signed disqualification consent agreement in cases of deferred adjudication.

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).

Amended by R.1998 d.498, effective October 5, 1998.
See: 30 N.J.R. 1928(a), 30 N.J.R. 3669(b).

In (a), increased the ineligibility period from six to 12 months for first violations and from 12 to 24 months for second violations; and added (e) through (i).

Repeal and New Rule, R.2004 d.181, effective May 17, 2004.
See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

Section was "Intentional program violation disqualification".

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 Disqualification penalties

(a) Individuals found to have committed an IPV, through either an administrative disqualification hearing or by a Federal, State or local court, 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,

except as provided at (b) through (e) below. The following are disqualification penalties:

1. A period of 12 months for the first IPV;
2. A period of 24 months upon the second occasion of an IPV; and
3. Permanently for the third occasion of any IPV.

(b) Individuals found by a Federal, State or local court to have used or received benefits in a transaction involving the sale of a controlled substance (as defined in section 102 of The Controlled Substances Act, 21 U.S.C. § 802) shall be ineligible to participate in the program as follows:

1. For a period of 24 months upon the first occasion of such violation; and
2. Permanently upon the second occasion of such violation.

(c) Individuals found by a Federal, State or local court to have used or received benefits in a transaction involving the sale of firearms, ammunition or explosives shall be permanently ineligible to participate in the program upon the first occasion of such violation.

(d) An individual convicted by a Federal, State or local court of having trafficked benefits for an aggregate amount of \$500.00 or more shall be permanently ineligible to participate in the program upon the first occasion of such violation.

(e) Except as provided at (a)3 above, an individual found to have made a fraudulent statement or representation with respect to the identity or place of residence of the individual in order to receive multiple food stamp benefits simultaneously shall be ineligible to participate in the program for a period of 10 years.

(f) The penalties at (b) and (c) above shall also apply in cases of deferred adjudication as described at N.J.A.C. 10:87-11.8, where the court makes a finding that the individual engaged in the conduct described at (b) and (c) above.

(g) If a court fails to impose a disqualification or a disqualification period for any IPV, the CWA shall impose the appropriate disqualification penalty specified at (a) through (e) above, unless it is contrary to the court order.

(h) One or more IPV's which occurred prior to April 1, 1983, shall be considered as only one previous disqualification when determining the appropriate penalty to impose in a case under consideration.

(i) Regardless of when an action taken by an individual which caused an IPV occurred, the disqualification periods at (b) and (c) above shall apply to any case in which the court makes the requisite finding on or after September 1, 1994.

(j) For the disqualification periods at (a), (e) or (f) above, if the offense occurred prior to the implementation of these penalties, the CWA shall establish a policy of disqualifying these individuals in accordance with the disqualification periods in effect at the time of the offense. This policy must be consistently applied for all affected individuals.

(k) CWAs shall disqualify only the individual found to have committed the IPV, or who signed the waiver of the right to an administrative disqualification hearing or disqualification consent agreement in cases referred for prosecution, and not the entire household.

(l) Even though only the individual is disqualified, the household is responsible for making restitution for the amount of any overpayment. All IPV claims must be established and collected in accordance with N.J.A.C. 10:87-11.20.

(m) The individual shall be notified in writing once it is determined that he or she is to be disqualified. The disqualification period shall begin no later than the second month which follows the date the individual receives written notice of the disqualification. The disqualification period shall continue uninterrupted until completed, regardless of the eligibility of the disqualified individual's 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 from N.J.A.C. 10:87-11.1(a)4.-5. to 11.2(a)-(f).

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

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

In (a), rewrote the last sentence.

Repeal and New Rule, R.2004 d.181, effective May 17, 2004.

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

Section was "Imposing disqualification periods".

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 Definition of intentional program violation

(a) IPV's shall consist of having intentionally:

1. Made a false or 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 for the purpose of using, presenting, transferring, acquiring, receiving, possessing or trafficking of benefits, authorization cards or reusable documents used as part of an automated benefit delivery system (access device).

disqualification, whenever possible. The notice shall inform the household member of the disqualification and the date the disqualification shall take effect. The CWA shall also provide written notice to the remaining household members, if any, of the allotment they will receive during the period of disqualification or that they must reapply because the certification period has expired. In addition, the CWA shall provide the written demand letter for restitution.

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).

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

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

In (f)ivi, substituted a reference to 12-month disqualifications for a reference to six-month disqualifications, and substituted a reference to 12-month disqualifications for a reference to 24-month disqualifications. Repeal and New Rule, R.2004 d.181, effective May 17, 2004.

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

Section was "Administrative disqualification hearing procedures".

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

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

In (a), substituted "food stamp benefits" for "food stamps".

10:87-11.8 Deferred adjudication

(a) Individuals accused of an IPV 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, the following:

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 shall 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 12-month disqualification for the first violation, 24-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; and

4. A statement of the fact that the remaining household members, if any, shall 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 suspected of an IPV signs the disqualification consent agreement, he or she shall be disqualified in accordance with the disqualification periods specified at N.J.A.C. 10:87-11.2, unless contrary to the court order. The period of disqualification shall begin within 45 days of the date the household member signed the disqualification consent agreement. However, if the court imposes a disqualification period or specifies a date for initiating the disqualification period, the CWA shall disqualify the household member in accordance with the court order.

1. Once a disqualified penalty has been imposed against a currently participating household member, the period of disqualification shall continue uninterrupted until completed regardless of the eligibility of the disqualified member's household. However, the disqualified member's household shall continue to be responsible for repayment of the overissuance which resulted from the disqualified member's IPV, regardless of its eligibility for program benefits.

(d) If the household member suspected of an IPV signs the disqualification consent agreement, the CWA shall provide written notice to the household member. The notice shall be provided prior to the disqualification, whenever possible. The notice shall inform the household member of the disqualification and the date the disqualification shall take effect. The CWA shall also provide written notice to the remaining household members, if any, of the allotment they will receive during the period of disqualification or that they must reapply because the certification period has expired. In addition, the CWA shall provide the written demand letter for restitution.

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.

Repeal and New Rule, R.2004 d.181, effective May 17, 2004.

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

Section was "Participation while awaiting a hearing".

10:87-11.9 Reporting requirements

(a) The CWA shall report to DFD information concerning individuals disqualified for IPV, including those individuals disqualified based on the determination of a final administrative disqualification hearing decision 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 in cases referred for prosecution. This information shall be forwarded by DFD to the United States Department of Agriculture/Food and Nutrition Service (USDA/FNS) so that it is received no later than 30 days after the date the disqualification took effect, or would have taken effect for a currently ineligible individual whose disqualification is pending future eligibility.

(b) DFD shall report information concerning each individual disqualified for IPV in a format known as the Disqualified Recipient System (DRS). This format shall include the individual's Social Security number, date of birth, full name, type of offense, number of the disqualification (1st, 2nd or 3rd), the State and county in which the disqualification took place, the date on which the disqualification took effect and the length of the disqualification period imposed.

(c) The CWA shall submit the required information on each individual disqualified for IPV through DFD's reporting system.

(d) All the data submitted by State agencies concerning individuals disqualified for IPV will be available for use by any New Jersey State agency or CWA. CWAs shall, at a minimum, use the data for the following:

1. To determine the eligibility of individual program applicants prior to certification in cases where the CWA has reason to believe a household member is subject to disqualification in another political jurisdiction;
2. To ascertain the appropriate penalty to impose, based on past disqualifications, in a case under consideration; and
3. To use this data in other ways, such as to screen all program applicants prior to certification and/or to periodically match the entire list of disqualified individuals against current caseloads.

(e) The disqualification of an individual for IPV in one political jurisdiction shall be valid in another. However, one or more IPV's which occurred prior to April 1, 1983, shall be considered as only one previous disqualification when determining the appropriate penalty to impose in a case under consideration, regardless of where the disqualification(s) took place. CWAs are required to identify any individuals disqualified for fraud prior to implementation of this rule and to submit the information required by this section on such individuals.

(f) In cases where the disqualification for an IPV is reversed by a court of appropriate jurisdiction, the CWA shall

submit a report to purge the file of the information relating to the disqualification which was reversed.

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".

Repeal and New Rule, R.2004 d.181, effective May 17, 2004.

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

Section was "Reserved".

10:87-11.10 Reverse disqualifications

In cases where the determination of an IPV is reversed by a court of appropriate jurisdiction, the CWA shall reinstate the individual in the program if the household is eligible. The CWA shall restore benefits that were lost as a result of the disqualification in accordance with the procedures specified at N.J.A.C. 10:87-11.16.

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.

Repeal and New Rule, R.2004 d.181, effective May 17, 2004.

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

Section was "No further administrative appeal".

10:87-11.11 Restoration of lost benefits

The CWA shall restore to the household benefits which were lost whenever the loss was caused by an error by the CWA. Additionally, the CWA shall restore lost benefits when this Manual specifically states that the household is entitled to restoration of lost benefits or an intentional program violation disqualification was subsequently reversed as specified by N.J.A.C. 10:87-11.10. In SSI jointly processed cases the CWA shall restore to the household benefits which were lost whenever the loss was caused by an error by the CWA or by the SSA/DO. Such an error shall include, but not be limited to, the loss of an applicant's food stamp application after it has been filed with the SSA/DO. Benefits shall be restored even if the household is currently ineligible. The CWA shall maintain an accounting system for documenting a household's entitlement to restoration of lost benefits and for recording the balance of lost benefits that must be restored to the household. The CWA shall, at a minimum, document how the amount to be restored was calculated and the reason for restoration. The accounting system shall be designed to

xiii. That the CWA may reduce any part of the claim if the agency believes that the household is not able to repay the claim;

xiv. A due date or time frame to either repay or make arrangements to repay the claim, unless the CWA is to impose allotment reduction; and

xv. If allotment reduction is to be imposed, the percentage to be used and the effective date.

5. The due date or time frame for repayment shall be not later than 30 days after the date of the initial written notification or demand letter.

6. Subsequent demand letters or notices shall be sent in accordance with N.J.A.C. 10:87-11.22(a)1.

(j) Rules on repayment agreements are as follows:

1. Any repayment agreement for any claim shall contain due dates or time frames for the periodic submission of payments.

2. The agreement shall specify that the household shall be subject to involuntary collection action(s) if payment is not received by the due date and the claim becomes delinquent.

(k) Rules on determining delinquency are as follows:

1. Unless specified at (k)4 below, a claim must be considered delinquent if:

i. The claim has not been paid by the due date and a satisfactory payment arrangement has not been made; or

ii. A payment arrangement has been established and a scheduled payment has not been made by the due date.

2. The date of delinquency for a claim covered at (k)1i above is the due date on the initial written notification/demand letter. The claim shall remain delinquent until payment is received in full, a satisfactory payment agreement is negotiated, or allotment reduction is invoked.

3. The date of delinquency for a claim covered at (k)1ii above is the due date of the missed installment payment. The claim shall remain delinquent until payment is received in full, allotment reduction is invoked, or if the CWA determines to either resume or renegotiate the payment schedule.

4. A claim shall not be considered delinquent if another claim for the same household is currently being paid either through an installment agreement or allotment reduction and the CWA expects to begin collection on the claim once the prior claim(s) is settled.

5. A claim is not subject to the requirements for delinquent debts if the CWA is unable to determine delinquency status because collection is coordinated through the court system.

(l) Rules concerning fair hearings and claims are as follows:

1. A claim awaiting a fair hearing decision shall not be considered delinquent.

2. If the final hearing decision, affirmed by the DFD Director, finds that a claim does, in fact, exist against the household, the household shall be re-notified of the claim. The demand for payment may be combined with the notice of the hearing decision. Delinquency shall be based on the due date of the subsequent notice and not on the initial pre-hearing demand letter sent to the household.

3. If the final hearing decision, affirmed by the DFD Director, finds that a claim does not exist, the claim is disposed of in accordance with (n) below.

(m) Rules on compromising claims are as follows:

1. The CWA may compromise a claim or any portion of a claim if it can be reasonably determined that a household's economic circumstances dictate that the claim will not be paid in three years.

2. The CWA may use the full amount of the claim (including any amount compromised) to offset benefits in accordance with N.J.A.C. 10:87-11.15(d) and (p)3 below.

3. The CWA shall reinstate any compromised portion of a claim if the claim becomes delinquent.

(n) Rules on terminating and writing-off claims are as follows:

1. A terminated claim is a claim in which all collection action has ceased. A written-off claim is no longer considered a receivable subject to continued Federal, State and county collection and reporting requirements.

2. The claim termination procedures are as follows:

i. If the CWA finds that the claim is invalid, the CWA shall discharge the claim and reflect the event as a balance adjustment rather than a termination. However, if it is appropriate to pursue the overpayment as a different type of claim (for example, as an IHE rather than an IPV claim), the CWA shall not discharge the claim.

ii. If all adult household members die, the CWA shall terminate and write-off the claim. The CWA may, however, take action to pursue the claim against the estate.

iii. If the claim balance is \$25.00 or less and the claim has been delinquent for 90 days or more, the CWA shall terminate and write-off the claim. However, if other claims exist against this household resulting in an aggregate claim total of greater than \$25.00, the claim shall not be written off.

iv. If the claim is delinquent for three years or more, the CWA shall terminate and write-off the claim. The

CWA may, however, continue to pursue the claim through the Treasury Offset Program (TOP).

v. If the CWA cannot locate the household, the CWA shall terminate and write-off the claim.

vi. If, after a claim has been terminated and written-off, a new collection method or a specific event occurs (such as winning the lottery) that substantially increases the likelihood of further collections, the CWA shall reinstate the claim.

(o) Acceptable forms of payment on claims are as follows:

1. The CWA may collect a claim by:

i. Reducing benefits prior to issuance. This includes allotment reduction and offsets to restored benefits. However, the CWA shall follow the instructions and limits found at (p)1 and 3 below;

ii. Reducing benefits after issuance. These are benefits from EBT accounts. However, the CWA shall follow the instructions and limits found at (p)2 below;

iii. Accepting cash or any of its generally accepted equivalents. These equivalents include check, money order, and credit or debit cards. However, the CWA does not have to accept credit or debit cards if it does not have the capability to accept these payments;

iv. Conducting own offsets and intercepts. This includes but is not limited to wage garnishments and intercepts of various State payments. These collections are considered "cash" for claim accounting and reporting purposes. However, the CWA shall follow any limits that may apply at (p) below;

v. Requiring the household to perform public service. However, this form of payment shall be ordered by a court and specifically be in lieu of paying any claim; or

vi. Participating in the Treasury collection programs. However, the CWA shall follow the procedures found at N.J.A.C. 10:87-11.21.

(p) Collection methods for claims are as follows:

1. Rules on allotment reduction are as follows:

i. The CWA shall automatically collect payments for any claim by reducing the amount of monthly benefits that a household receives. Unless, the claim is being collected at regular intervals at a higher amount or another household is already having its allotment reduced for the same claim (see (p)1vi below).

ii. The CWA shall, for an IPV claim, limit the amount reduced to the greater of \$20.00 per month or 20 percent of the household's monthly allotment or entitlement, unless, the household agrees to a higher amount.

iii. The CWA shall, for an IHE or AE claim, limit the amount reduced to the greater of \$10.00 per month

or 10 percent of the household's monthly allotment, unless, the household agrees to a higher amount.

iv. The CWA shall not reduce the initial allotment when the household is first certified, unless, the household agrees to this reduction.

v. The CWA shall not use additional involuntary collection methods against individuals in a household that is already having its benefits reduced, unless, the additional payment is voluntary; or the source of the payment is irregular or unexpected, such as a State tax refund or lottery winnings offset.

vi. The CWA may collect, using allotment reduction, from two separate households for the same claim. However, the CWA is not required to perform this simultaneous reduction.

vii. The CWA may continue to use any other collection method against any individual who is not a current member of the household that is undergoing allotment reduction.

2. Rules on collecting benefits from EBT accounts are as follows:

i. The CWA shall allow a household to pay its claim using benefits from its EBT account in accordance with N.J.A.C. 10:88-6.2. The CWA shall comply with the following EBT claims collection and adjustment requirements:

(1) For collecting from active (or reactivated) EBT benefits the CWA needs written permission, which may be obtained in advance and done in accordance with (p)2iii below; or oral permission for one time reductions with the CWA sending the household a receipt of the transaction within 10 days. The retention rates described at (v) below apply to this collection.

(2) For collecting from stale EBT benefits the CWA shall mail or otherwise deliver to the household, written notification that the CWA intends to apply the benefits to the outstanding claim, and give the household at least 10 days to notify the CWA that it does not want to use these benefits to pay the claim. The retention rates described at (v) below apply to this collection.

(3) For making an adjustment with expunged EBT benefits the CWA shall adjust the amount of any claim by subtracting any expunged amount from the EBT benefit account which the CWA becomes aware of. This adjustment can be done at any time. The retention rates described at (v) below do not apply to this balance adjustment.

ii. A collection from an EBT account shall be non-settling against the benefit drawdown account.

iii. At a minimum, any written agreement with the household to collect the claim using active EBT benefits shall include:

- (1) A statement that this collection activity is strictly voluntary;
- (2) The amount of the payment;
- (3) The frequency of the payments (that is, whether monthly or one time only);
- (4) The length (if any) of the agreement; and
- (5) A statement that the household may revoke this agreement at any time.

3. The CWA shall reduce any restored benefits owed to a household by the amount of any outstanding claim. This is called offsetting a claim and may be done at any time during the claim establishment and collection process.

4. The CWA shall accept any payment for a claim whether it represents full or partial payment. The payment may be in any of the acceptable forms described at (o) above.

5. The CWA may accept installment payments made for a claim as part of a negotiated repayment agreement. If the household fails to submit a payment in accordance with the terms of the negotiated repayment schedule, the claim becomes delinquent and it shall be subject to additional collection actions.

6. Contingent upon agreements established between DFD and the Department of Labor and Workforce Development, for inactive cases, the CWA may intercept an individual's unemployment compensation benefits (UIB) by obtaining a court order. The CWA shall report any intercept of UIB as "cash" payments to USDA.

7. If authorized by a court, the value of a claim may be paid by the household performing public service.

8. The CWA may employ any other collection actions to collect claims. These actions include but are not limited to, referrals to collection and or other similar private and public sector agencies, State tax refund and lottery offsets, wage garnishments, property liens and small claims court.

9. Rules on unspecified joint collections are as follows:

i. When a CWA receives an unspecified joint collection in which the food stamp claim has been combined with one or more other program claims, the CWA shall allocate the repayment to reflect the proportionate share of monies recovered for each program. Unspecified collections for more than one program are not to be assigned solely to the non-food stamp programs.

ii. The proportionate share is determined by what percentage is owed to each program (TANF, FS and Medicaid). For example, where the client owes \$1,000 to Medicaid, \$500.00 to TANF and \$500.00 to Food

Stamps, the shares are to reflect one-half of the monies returned to Medicaid, and one-quarter each respectively to TANF and the Food Stamp program.

(q) No interest or court fees are to be applied to claims established due to the overissuance of or ineligibility for food stamp benefits.

(r) Rules on refunds for overpaid claims are as follows:

1. If a household overpays a claim, the CWA shall provide a refund for the overpaid amount as soon as possible after it finds out about the overpayment. The household shall be paid by whatever method the CWA deems appropriate considering the circumstances.

2. The household is not entitled to a refund if the overpayment amount is attributed to an expunged EBT benefit.

(s) Policy on interstate claims collection is as follows:

1. Unless a transfer occurs as outlined at (s)2 and (t) below, the CWA is responsible for initiating and continuing collection action on any food stamp recipient claim regardless of whether the household remains in New Jersey.

2. The CWA shall accept a claim from another state agency if the household with the claim moves into New Jersey. Once the CWA accepts this responsibility, the claim is the CWA's for future collection and reporting. CWAs shall report interstate transfers in accordance with instructions provided by USDA/FNS.

(t) If a recipient moves from one county of residence to another county of residence within the State of New Jersey, the collection of an outstanding claim can be transferred to the new county upon mutual agreement.

(u) The CWA shall act on behalf of, and as, USDA/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 USDA/FNS. Acting as USDA/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 USDA/FNS might have filed. Any amounts collected under this authority shall be transmitted to the DFD as provided at (w) below.

(v) Retention rates for CWA use are as provided in (v)1 through 4 below:

1. If the CWA collects an IPV claim, the retention rate is 35 percent;

2. If the CWA collects an IHE claim, the retention rate is 20 percent;

3. If the CWA collects an IHE claim by reducing a person's unemployment compensation benefit, the retention rate is 35 percent;

4. If the CWA collects an AE claim, the retention rate is zero.

(w) Receipt and transmittal of collections are as follows:

1. The CWA shall instruct the household to submit checks or money orders payable to the respective CWA.

i. 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.

ii. The collections received during the reporting quarter must be submitted to DFD by issuing a check, payable to "Treasurer, State of NJ" either monthly or quarterly.

(1) For purposes of recordkeeping, each CWA shall maintain a schedule of collections received during the quarter indicating the case number, household's name, amount of claim, current payment, amount paid to date and balance due.

(x) Accounting procedures are as follows:

1. The CWA shall be responsible for maintaining an accounting system for monitoring claims against households. The accounting system shall be designed to accomplish the following:

i. 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.

ii. Identify those situations in which an amount not yet restored to a household can be used to offset a claim owed by the household.

iii. Identify those households that have failed to make installment payments on their claims.

iv. Document how much money was collected and how much was submitted to DFD.

2. At a minimum, the accounting system shall document the following for each claim:

- i. The date of discovery;
- ii. The reason for the claim;
- iii. The calculation of the claim;
- iv. The date the claim was established;
- v. The methods used to collect the claim;

vi. The amount and incidence of any claim processing charges;

vii. The reason for the final disposition of the claim;

viii. Any collections made on the claim; and

ix. Any correspondence, including follow-up letters, sent to the household.

3. At a minimum, the accounting or certification system shall also identify the following for each claim:

i. Those households whose claims have become delinquent;

ii. Those situations in which an amount not yet restored to a household can be used to offset a claim owed by the household; and

iii. Those households with outstanding claims that are applying for benefits.

4. When requested and at intervals determined by USDA/FNS, the accounting system shall also produce:

i. Accurate and supported outstanding balances and collections for established claims; and

ii. Summary reports of the funds collected, the amount submitted to DFD, the claims established and terminated, any delinquent claims processing charges, the uncollected balance and the delinquency of the unpaid debt.

5. On a quarterly basis, unless otherwise directed by DFD, the accounting system shall reconcile summary balances reported to individual supporting records.

Repeal and New Rule, R.2004 d.181, effective May 17, 2004.

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

Section was "Change in household composition".

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

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

In (a)1, substituted "food stamp benefits" for "coupons" and "EBT" for "APT"; in (o)1i through (o)1iii, substituted a semicolon for the period at the end; deleted (o)1iv; recodified (o)1v through (o)1vii as (o)1iv through (o)1vi; in (o)1iv, substituted a semicolon for a period at the end; in (o)1v, substituted "; or" for the period at the end; in (o)1vi, updated the N.J.A.C. reference; and in (p)6, substituted "and Workforce Development" for "DOL" and "to USDA" for "for reporting purposes".

Administrative correction.

See: 40 N.J.R. 1663(a).

10:87-11.21 Treasury Offset Program

(a) Rules on Treasury Offset Program (TOP) are as follows:

1. Procedures for referring debts to TOP are as follows:

i. Appropriate client contact shall be made by the CWA prior to forwarding a claim to DFD for referral to TOP.

ii. When a claim for \$25.00 or more becomes delinquent, the CWA shall send a demand letter(s) at 30, 60 and 90-day intervals to the client requesting that he or she make voluntary payment or set up a payment schedule. This will require the CWA to identify and track delinquent claims at the 30, 60 and 90-day periods.

iii. If the client has not responded to the demand letter issued at the 90-day interval, the CWA shall refer these claims to OIS at DFD for processing. OIS, in turn, generates a 60-day notice advising the client that if he or she does not contact the CWA for payment of the claim by the end of the 60-day period, the claim shall be referred to TOP.

iv. The CWA shall certify that all claims referred to TOP are 180 days delinquent and legally enforceable.

v. The CWA shall also follow DFD procedures regarding responding to inquiries, subsequent reviews and hearings, and any other procedures determined necessary in the debtor notification process.

2. Procedures for debts not referred to TOP are as follows:

i. The CWA shall not refer to TOP a claim when:

(1) It becomes aware that the debtor is a member of a participating household that is having its allotment reduced to collect the claim; or

(2) It falls into any other category designated by USDA/FNS and transmitted through DFD as non-referable to TOP.

3. Procedures in effect on debtors to TOP are as follows:

i. As a debtor, if the claim is referred to TOP, any eligible Federal payment which is owed may be intercepted through TOP.

ii. The debtor is also responsible for paying any collection or processing fees charged by the Federal government to intercept the payment.

4. Procedures when a claim is in TOP are as follows:

i. The CWA shall follow USDA/FNS procedures, as transmitted through DFD, when a claim is in TOP.

ii. The CWA shall inactivate or close a claim from TOP if:

(1) USDA/FNS or Treasury instructs to inactivate or close the debt; or

(2) It is discovered that:

(A) The debtor is a member of a food stamp household undergoing allotment reduction;

(B) The claim is paid up;

(C) The claim is disposed of through a hearing, termination, compromise or any other means;

(D) The claim was referred to TOP in error; or

(E) An arrangement is made with the debtor to resume payments.

5. DFD transmitted procedure on receiving and reporting TOP payments shall be followed.

6. DFD transmitted procedure regarding any security or confidentiality agreements or processes necessary for TOP participation shall be followed.

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.

Repeal and New Rule, R.2004 d.181, effective May 17, 2004.

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

Section was "Benefits lost prior to EPR".

Recodified from N.J.A.C. 10:87-11.22 by R.2007 d.129, effective May 7, 2007.

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

Former N.J.A.C. 10:87-11.21, Operation Judgement Day, repealed.

10:87-11.22 (Reserved)

Repeal and New Rule, R.2004 d.181, effective May 17, 2004.

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

Section was "Federally mandated reduction or cancellation of benefits".

Recodified to N.J.A.C. 10:87-11.21 by R.2007 d.129, effective May 7, 2007.

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

Section was "Treasury Offset Program".

10:87-11.23 (Reserved)

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

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

Section was "Claims against households".

10:87-11.24 (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 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.

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

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

Section was "Inadvertent household error and administrative error claims".

10:87-11.25 (Reserved)

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.

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

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

In (b), substituted a reference to food stamp benefits for a reference to ATPs in 3, and substituted a reference to monthly food stamp benefits for a reference to food stamp allotments in 4; and in (e), added 3.

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

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

Section was "Instances requiring a claim determination for inadvertent household errors or administrative errors".

10:87-11.26 (Reserved)

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.

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

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

In (a), deleted a former 2, and recodified former 3 as 2; and in (b), rewrote 1 and 2.

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

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

Section was "Collecting inadvertent household errors and administrative error claims".

10:87-11.27 (Reserved)

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.

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

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

Section was "Intentional program violation claims".

10:87-11.28 (Reserved)

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.

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

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

Section was "Establishing an intentional program violation claim".

10:87-11.29 (Reserved)

Amended by R.1983 d.224, effective May 31, 1983.