

3. All remaining income of the natural or adoptive parent shall be considered as unearned income and shall be added together with any other countable income of the children to determine the total countable income available to the eligible assistance unit.

4. The total countable income shall be deducted from the payment benefit level for the appropriate eligible unit size in Schedule II at N.J.A.C. 10:90-3.3, and the remainder shall be the WFNJ benefit payable for the eligible children.

i. In the event that the WFNJ benefit calculation results in a benefit of less than \$10.00, (b)2ii(2) above shall apply.

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

In (b)2, substituted "is less than" for "does not exceed" following "income" in the second sentence, and inserted "equals or" following "income" in the third sentence; and in (c), substituted references to N.J.A.C. 10:90-3.3 for references to N.J.A.C. 10:90-3.5 throughout.

10:90-3.15 Eligibility of sponsored aliens and deeming of sponsor's income and resources to a sponsored alien for eligible aliens who entered the United States prior to August 22, 1996

(a) The income and resources of an alien's sponsor shall be deemed to be unearned income and resources of an alien applying for WFNJ for a period of three years following the alien's entry into the United States. For purposes of deeming, a sponsor is an individual who executed an affidavit of support or similar agreement on behalf of an alien (who is not the child of the sponsor or the sponsor's spouse) as a condition of the alien's entry into the United States.

1. No income or resources shall be deemed from a sponsor who is (or whose spouse is) receiving WFNJ or SSI.

(b) An alien may also be sponsored by a public or private agency or organization, however, alien sponsor deeming provisions are not applicable. In such situations, (b)1 below applies.

1. Any alien who was sponsored by a public or private agency or organization, and is not exempt from deeming provisions as described in (i) below, shall be ineligible for public assistance for a period of three years following his or her entry into the United States unless the county or municipal agency determines that the a public or private agency or organization no longer exists or has been declared bankrupt by a court of appropriate jurisdiction.

(c) For a period of three years following entry for permanent residence into the United States, a sponsored alien who is not exempt from deeming, as described in (i) below, shall provide the county or municipal agency with any information and documentation necessary to determine the income and resources of the sponsor and the sponsor's spouse (if applicable and if living with the sponsor) that can

be deemed available to the alien, and obtain any cooperation necessary from the sponsor.

1. If the alien's circumstances change during the three-year period such that the alien is no longer exempt from or subject to deeming in accordance with (i) below, the county or municipal agency shall reflect the resulting change in unearned income in the assistance payment.

2. A sponsored alien is ineligible in any month in which adequate information concerning the income and resources of the sponsor (or sponsor's spouse if living with the sponsor) is not provided.

3. Un-sponsored family members may remain eligible even if a sponsored alien fails to provide information concerning the sponsor (or sponsor's spouse if living with the sponsor). However, any income the un-sponsored family members actually receive from the sponsor must be reported and considered in determining their eligibility.

(d) The amount of income of a sponsor which shall be deemed to be the unearned income of an alien shall be determined as follows:

1. The sponsor's total monthly wages, salaries, and net earnings from self-employment (and that of his or her spouse if living with the sponsor) shall be reduced by 20 percent.

2. The amount determined in (d)1 above shall be added to the unearned income of the sponsor (and that of his or her spouse if living with the sponsor).

3. The amount determined in (d)2 above shall be reduced by the following:

i. The appropriate amount from Schedule VI at N.J.A.C. 10:90-3.18 (Schedule VI is also used for calculating lump sum income) for the sponsor, spouse, and other persons residing in his or her household who are or could be claimed by the sponsor as dependents for determination of Federal personal income tax liability and who are not recipients of WFNJ;

ii. Any amounts actually paid by the sponsor or sponsor's spouse to people not living in the household who are or could be claimed by them as dependents to determine their Federal personal income tax liability; and

iii. Actual payments of spousal support or child support with respect to individuals not in the household.

4. The remaining amount shall be deemed to the alien and shall be counted as unearned income in the determination of eligibility and cash assistance benefit.

(e) The amount of resources of the sponsor (and of the sponsor's spouse if living with the sponsor) shall be determined in accordance with the provisions of this subchapter. The value of the sponsor's resources shall be reduced by \$2,000 and remaining amount shall be deemed available to

the alien and counted in the determination of WFNJ eligibility and benefit payment level.

(f) In any case where a person is the sponsor of two or more aliens, the income and resources of the sponsor (and the sponsor's spouse if living with the sponsor), to the extent the income and resources would be deemed to any one of the aliens under the provisions of this section, shall be equally divided among the sponsored aliens.

(g) Income and resources which are deemed to a sponsored alien shall not be considered in determining the need of other unsponsored members of the alien's family except to the extent the income and resources are actually available. The sponsor's obligatory contribution shall not exceed the per capita share of the eligible unit's adjusted allowance for the alien(s) for whom the sponsor is liable.

(h) Any individual sponsor of an alien, and the alien, shall be jointly and severally liable for any overpayment of public assistance made to the alien during the three years after the alien's entry into the United States that was caused by the sponsor's failure to provide correct information under the provisions of this section, except as provided in (h)1 below.

1. When a sponsor is found to have good cause or to be without fault for not providing information to the county or municipal agency, the sponsor will not be held liable for the overpayment and recovery will not be made from this sponsor.

2. An overpayment for which the alien or the sponsor and the alien are liable as described above shall be repaid to the county or municipal agency or recovered in accordance with the provisions of N.J.A.C. 10:90-3.21. If the county or municipal agency is unable to recover the overpayment through this method, the overpayment shall be withheld from future payments to which the alien or the alien and the individual sponsor are entitled under:

i. Any State administered or supervised program established by the Social Security Act; or

ii. Any cash benefit program administered by the Social Security Administration and established by the Social Security Act.

(i) These deeming provisions do not apply to any alien who is:

1. Admitted as a conditional entrant refugee to the United States as a result of the application of the provision of Section 203(a)(7) (in effect prior to April 1, 1980) of the Immigration and Nationality Act;

2. Admitted as a refugee to the United States as a result of the application of the provisions of Section 207(c) (in effect after March 31, 1980) of the Immigration and Nationality Act (8 U.S.C. §§ 1101 et seq.);

3. Paroled into the United States as a refugee under Section 212(d)(5) of the Immigration and Nationality Act;

4. Granted political asylum by the Attorney General under Section 208 of the Immigration and Nationality Act;

5. A Cuban or Haitian entrant as defined in Section 501(e) of the Refugee Education Assistance Act of 1980 (Public Law 96-422);

6. The dependent child of the sponsor or sponsor's spouse; or,

7. An Amerasian admitted under Section 584 of the Foreign Operation Appropriations Act beginning March 20, 1988.

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

10:90-3.16 Deeming income of parents of adolescent parents

(a) An adolescent parent is an individual under the age of 18 and who is himself or herself a parent of a dependent child.

(b) Whether or not an adolescent parent lives in the same home as his or her own parent(s), the income of such parent(s) shall be deemed available to the eligible assistance unit; however, inability to obtain financial information of such parent(s) shall not preclude eligibility of the adolescent parent. These rules do not apply if the parent(s) of the adolescent parent receive(s) SSI or WFNJ. Deeming under this provision shall be in accordance with the following procedures:

1. Reduce the gross earned income (and net income from self-employment) of each employed parent by the 50 percent disregard as specified at N.J.A.C. 10:90-3.8;

2. Add the result to the unearned income of the parent(s);

3. Any income remaining shall be reduced by any amounts paid by the parent(s) as spousal support or child support to individuals not living in the household; and

4. All income remaining shall be counted as unearned income available to the eligible unit and shall be counted toward total income and in the determination of financial eligibility and the cash assistance benefit amount.

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

10:90-3.17 WFNJ/GA special payment provisions for other living arrangements

(a) When an individual is purchasing a room and board living arrangement, the following shall apply:

1. When an individual who is in need of extensive personal services on a regular and continuous basis is purchasing a room and board living arrangement in a residential health care facility (licensed by the New Jersey Department of Health and Senior Services for purposes other than the care or treatment of drug or alcohol abuse), the monthly assistance payment (\$662.05), including a personal allowance, shall not exceed the rate approved by the New Jersey Department of the Treasury, less any countable income. When a rate increase is approved, a notice of administrative change to that effect will be published in the New Jersey Register. Information about the current rate may also be obtained by contacting the DFD. However, the cost of purchasing such living arrangement shall not exceed the minimum amount which the establishment customarily charges to or for other guests not dependent on public assistance, for the same accommodations and/or services.

2. When an individual is purchasing room and board in a group facility or a boarding home (including a private home) other than a residential health care facility as in (a)1 above, or a center for treatment of drug or alcohol abuse as in (a)4 below, the total monthly benefit payment shall be the maximum benefit payment amount for a single adult as given in Schedule IV or Schedule V at N.J.A.C. 10:90-3.5 and 3.6, as appropriate, less any countable income.

i. The spouse of a boarding home operator when living in the same home is also considered a boarding home operator. Neither the spouse nor a child under age 18 of a boarding home operator may be considered a boarder there.

3. See N.J.A.C. 10:90-13.5 regarding care in nursing facilities.

4. When an individual is receiving room and board in a residential center for the treatment of drug or alcohol abuse, whether or not the center is licensed by the New Jersey Department of Health and Senior Services, the total allowance shall not exceed the amount to which the individual would be entitled as an eligible unit of one as given in Schedule IV or Schedule V at N.J.A.C. 10:90-3.5 and 3.6, as appropriate. Of that amount, \$25.00 shall be considered as an allowance for personal incidentals and the remainder as the room and board payment to the center. (Note: Licensure of the center by the New Jersey Department of Health and Senior Services as a medical institution will not affect the payment rate.)

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

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

Administrative Change.

See: 30 N.J.R. 2090(a).

Administrative change.

See: 31 N.J.R. 873(a).

Administrative change.

See: 32 N.J.R. 1395(a).

Special amendment, R.2000 d.392, effective September 1, 2000 (to expire March 1, 2001).

See: 32 N.J.R. 3615(a).

In (a)3, changed N.J.A.C. reference.

Amended by R.2001 d.42, effective December 27, 2000.

See: 32 N.J.R. 3615(a), 33 N.J.R. 564(a).

In (a)3, changed N.J.A.C. reference.

Public Notice: WFNJ/GA Rate in Residential Health Care Facilities.

See: 33 N.J.R. 2217(a).

10:90-3.18 Treatment of lump sum income WFNJ TANF/GA

(a) Lump sum income includes, but is not limited to, payments in the nature of a windfall such as inheritances, lottery, casino and racetrack winnings; RSDI, Railroad Retirement, Veterans and Worker's Compensation retroactive awards; and personal injury awards.

1. Nonrecurring lump sum income will be subject to repayment of past assistance (including emergency assistance) in accordance with the agreement to repay; after the agreement to repay is satisfied, any remaining amount of the lump sum income shall be considered in determining the period of WFNJ ineligibility.

2. SSI payments shall not be subject to lump sum repayment rules for WFNJ/TANF recipients (see (a)2i below for WFNJ/GA recipients).

i. For WFNJ/GA recipients, retroactive SSI payments are subject to repayment in accordance with WFNJ/GA fiscal provisions at N.J.A.C. 10:90-14.5.

(b) The recipient shall notify the county or municipal agency within 10 calendar days of the receipt of a lump sum income.

(c) When a recipient receives nonrecurring earned or unearned lump sum income, the extent it is not earmarked and used for the purpose for which it was paid (for example, moneys for back medical bills resulting from accidents or injury, funeral and burial costs, replacement or repair of resources, and so forth), that income shall be used to repay assistance granted in accordance with the agreement to repay. After the agreement to repay is satisfied, any lump sum remaining will be added together with all other countable income received that month by the eligible assistance unit after application of the appropriate disregards in N.J.A.C. 10:90-3.8.

1. An allowance may be made to disregard a portion of the remaining lump sum money that may be spent to purchase items that are integral in promoting self-sufficiency, such as the purchase of a first vehicle (up to the resource allowed for such vehicle in these rules at N.J.A.C. 10:90-3.20), vehicle repairs or essential household items.

2. Effective April 2, 1997, if assistance payments (including emergency assistance) are repaid to a county or municipal agency, in accordance with the agreement to repay, the months of assistance for which cash payments were repaid shall not count toward a recipient's five year time limit on receipt of public assistance.

(d) When the total remaining lump sum income (for either a WFNJ/TANF or WFNJ/GA case) exceeds 200 percent of the WFNJ/TANF maximum payment level for the appropriate eligible assistance unit size as set forth in Schedule VI below, the assistance unit will be ineligible for WFNJ for the number of full months derived by dividing this total income by the payment level applicable to the eligible assistance unit size in Schedule VI.

1. Schedule VI shall also be used for alien sponsor-income deeming as set forth in N.J.A.C. 10:90-3.15.

WFNJ/TANF and WFNJ/GA Schedule VI

Number in Eligible Unit	200% of WFNJ/TANF Payment Level
1	\$ 324
2	644
3	848
4	976
5	1104
6	1232
7	1354
8	1456
More than 8	Add \$100.00 each person

(e) For purposes of determining the period of ineligibility, the WFNJ assistance unit and any other individual (such as a stepparent) whose lump sum income caused the assistance unit's income to exceed the allowance standard shall be included in such determination.

1. The period of ineligibility shall begin in the first month subsequent to the month the nonrecurring income is received or, if there is insufficient time for a timely adverse action notice, the following month.

2. In the event the nonrecurring income is not reported timely, the period of ineligibility shall begin at the point the ineligibility would have occurred had the county or municipal agency had knowledge of its receipt. The amount of overpayment for the period of ineligibility must be established and recovery made.

3. The period of ineligibility applies to each individual in the eligible assistance unit at the time of receipt of the lump sum nonrecurring income.

4. Once established, the period of ineligibility may be recalculated/ reduced only if the lump sum income used to determine such period becomes unavailable to the eligible assistance unit for reasons beyond the control of the assistance unit members. It is the responsibility of the former eligible assistance unit to provide all necessary information and documentation required to make a determination to shorten the period of ineligibility. The basis for a determination to shorten the period of ineligibility shall be thoroughly documented in the case record. Acceptable reasons include, but are not limited to, those below:

i. Allegation of loss or theft of part or all of the lump sum, including circumstances where a member of the former eligible assistance unit has absconded with the funds.

(1) The former eligible assistance unit shall thoroughly substantiate an allegation of loss or theft of income and must provide the county or municipal agency with evidence that a police report of an incident of theft has been filed. Upon receipt of credible evidence of loss or theft of the income the county agency shall reduce the amount of the original lump sum by the amount of the loss or theft;

ii. The former eligible assistance unit incurs and pays verifiable expenses due to an emergent situation, for which, had the assistance unit been eligible, emergency assistance would have been authorized under N.J.A.C. 10:90-6. Upon receipt of credible verification of those expenses, the county or municipal agency shall reduce the amount of the original lump sum;

iii. The assistance unit incurs, becomes responsible for, and pays medical expenses during the period of ineligibility; or

iv. Other circumstances, with the provision of appropriate verification, as approved by the DFD.

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

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

In (d), inserted "(for either a WFNJ/TANF or WFNJ/GA case)" following "income".

10:90-3.19 Exempt income

(a) Exempt income is not considered in determining eligibility for assistance or in computing the amount of WFNJ cash assistance payments. The following sources of income shall be exempt:

1. Up to the first \$50.00 of child support received;
2. Income tax refunds;
3. Homestead property tax rebates;
4. Earned income credit (EIC) payments;
5. Unearned income (including moneys to offset training expenses) received by a WFNJ dependent child through the Job Training Partnership Act (JTPA);
6. Earned income received through the JTPA by a WFNJ dependent child;
7. Allowance payments to offset expenses related to training received by any WFNJ recipient who is participating in the JTPA program;
8. The earned income of any middle or secondary school student in the eligible assistance unit;

i. This income exemption applies to children who are full-time students up to the age of 18, or up to the age of 19 if they are expected to complete an educational program before reaching age 19; and children up to the age of 21, if they are enrolled in a special education program (see N.J.A.C. 10:90-2.7);

9. Any grant, scholarship, student loan or other financial aid received by an eligible child or eligible adult who

is a student, including funds received through college work study programs, so long as the eligible child or eligible adult continues to attend school and meets the conditions under which such moneys are granted and complies with required WFNJ work requirements at N.J.A.C. 10:90-4;