

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

Chapter 87. Food Stamp Manual, expires on April 5, 2009.

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

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

Case Notes

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

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

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

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

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(l) of the Internal Revenue Code of 1954 shall be subject to the safeguards established by the Secretary of the Treasury in section 6103(l) 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 insur-

ance 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 1.

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 redefined 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;

2. Adults and children under the age of 18, if the adult has parental control of the children (excluding foster children) who reside together, unless the children are married and living with their spouses, or are living with their own children. Children under 18 who are living with an adult who is not their parent, but who are living with either their spouse or children of their own, shall not be considered to be under parental control. Children under 18 not living with their married spouse or their own children shall be considered to be under parental control for purposes of this provision if they are financially or otherwise dependent on a member of the household;

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

4. Individuals who purchase and prepare meals together.

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

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.

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 coupon allotment (MCA) for the appropriate size of the boarder household; or

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

4. 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 income and resources of an excluded household member shall be considered available to the remaining household members in accordance with N.J.A.C. 10:87-7.7. Excluded household members may not participate in the program as separate households.

1. Individuals disqualified for intentional program violation (see N.J.A.C. 10:87-11.1 through 11.10);

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

3. Individuals who do not attest to or meet the citizenship or eligible alien status requirements at N.J.A.C. 10:87-3.6, 3.7 and 3.8 or the eligible sponsored alien requirements at N.J.A.C. 10:87-7.11(a); or

4. Individuals disqualified for noncompliance with the work registration, employment and training program, or voluntary quit provisions at N.J.A.C. 10:87-10.5 and 10.15 through 10.20.

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

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

(a)5: new text substituted for old.

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

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

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

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

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

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

Amended by R.1983 d.223, effective May 31, 1983.

See: 15 N.J.R. 629(a), 15 N.J.R. 1033(a).

Originally adopted as an emergency Rule R.1983 d.116, eff. March 31, 1983, operative April 1, 1983. The amendment is pursuant to the Food Stamp Act Amendments of 1982 (P.L. 97-253) and the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35). Language concerning disqualified individuals changed to excluded household members.

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

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

(c)5 added.

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

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

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

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

Substantially amended.

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

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

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

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

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

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

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

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)6, substituted references to individuals for references to children 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.

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

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

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

2. Substance abusers who, for the purpose of regular participation in a New Jersey Department of Health and Senior Services licensed or approved residential substance abuse treatment program, reside at a facility or treatment center as described at N.J.A.C. 10:87-2.7(d);

i. Residents must be certified as one-person households unless their children are living with them, in which case their children shall be included in the household with the parent;

3. Blind and/or disabled individuals who meet the definition at N.J.A.C. 10:87-2.34 and who reside in a public or private nonprofit group living arrangement that serves no more than 16 residents (see N.J.A.C. 10:87-2.7(e));

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

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

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

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

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

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

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

3. A temporary accommodation in the residence of another individual, provided that such accommodation is not maintained for more than 90 days; or

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

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

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

Added, group living arrangements and shelters for battered women.

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

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

Substantially amended.

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

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

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

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, inserted ", provided that such accommodation is not maintained for more than 90 days" following "individual".

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.

10:87-2.5 Boarding home/house

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

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

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.

Case Notes

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

10:87-2.6 Head of household

(a) The CWA shall not use the head of household designation to impose special requirements on the household, such as requiring that the head of household, rather than another responsible member of the household, appear at the certification office to make application for benefits.

(b) When designating the head of household, the CWA shall allow the household to select an adult parent of children (of any age) living in the household, as the head of household provided that all adult household members agree to the selection. The CWA shall permit such households to select their head at each certification action or whenever there is a change in household composition.

1. The CWA shall provide written notice to all households at the time of application and, as otherwise appropriate, that specifies the household's right to select its head of household in accordance with (b) above.

i. The written notice shall identify which households have the option to select their head of household, the circumstances under which a household may change its designation of head of household and how such changes must be reported to the CWA.

(c) If all adult household members do not agree to the selection or decline to select an adult parent as the head of household, the CWA may designate the head of household or permit the household to make another selection. In no event shall the household's failure to select an adult parent of children, or an adult who has parental control over children, as the head of household delay the certification or result in the denial of benefits of an otherwise eligible household. For households that do not consist of adult parents and children or adults who have parental control of children living in the household, the CWA shall designate the head of household or permit the household to do so.

(d) For purposes of failure to comply with the work requirements at N.J.A.C. 10:87-10, the head of household shall be the principal wage earner unless the household has selected an adult parent of children as specified in (b) and (c) above. The principal wage earner shall be the household member (including excluded members, see N.J.A.C. 10:87-2.3(c)) who is the greatest source of earned income in the two months prior to the month of the violation. This provision applies only if the employment involves 20 hours or more per week or provides weekly earnings at least equivalent to the Federal minimum wage multiplied by 20 hours.

1. No person of any age living with a parent or person fulfilling the role of a parent who is registered for work or exempt from work registration requirements because such parent or person fulfilling the role of a parent is subject to and participating in any work requirement under title IV of the Social Security Act, or in receipt of unemployment compensation (or has registered for work as part of the application for or receipt of unemployment compensation), or is employed or self-employed and working a minimum of 30 hours weekly or receiving weekly earnings equal to the Federal minimum wage multiplied by 30 hours, shall be considered the head of household unless the person is an adult parent of children as specified in (b) and (c) above and the household elects to designate the adult parent as its head of household.

2. If there is no principal source of earned income in the household, the household member, documented in the case file as the head of household at the time of the violation, shall be considered the head of household.

3. The designation of head of household through the circumstances at (d) above shall take precedence over a previous designation of head of household at least until the period of ineligibility is ended.

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

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

Added all new text.

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

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

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

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

Substantially amended.

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

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

Added new (b)iv.

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)iii, provides for the selection of a head of household.

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 "Head of Household".

10:87-2.7 Authorized representatives

(a) The head of the household, spouse, or any other responsible member of the household may designate an authorized representative to act on behalf of the household in one or all of the functions described in (b) through (e) below.

Amended by R.1979 d.459, effective January 1, 1980.

See: 12 N.J.R. 40(c).

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

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

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

(a)2i added.

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

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

Substantially amended.

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

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

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

In (a): added language about medical expenses.

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

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

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

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

Added (e).

Recodified from N.J.A.C. 10:87-2.28 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. 10:87-2.24, Documentation, recodified to N.J.A.C. 10:87-2.23.

10:87-2.25 Denial of the application

Households that are found to be ineligible shall be sent a notice of denial as soon as possible, but not later than 30 days following the date the application was filed. If the household had failed to appear for two scheduled interviews and has made no subsequent contact with the CWA to express an interest in pursuing the application, the CWA shall send the household a notice of denial on the 30th day following the date of application. The household shall file a new application, if it wishes to participate in the Program. In cases where the CWA was able to conduct an interview and request all of the necessary verification on the same day the application was filed, and no subsequent requests for verification have been made, the CWA may also deny the application on the 30th day if the CWA provided assistance to the household in obtaining verification when required, as specified at N.J.A.C. 10:87-2.22(d), but the household failed to provide the requested verification.

New Rule, R.1990 d.270, effective May 21, 1990.

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

Recodified from N.J.A.C. 10:87-2.29 and 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. reference in the fourth sentence. Former N.J.A.C. 10:87-2.25 repealed.

10:87-2.26 Normal processing standard

(a) The CWA shall provide eligible households that submit a complete application an opportunity to participate as soon as possible, but not later than 30 calendar days after the application was filed. CWAs are required to provide the applicant with a copy of an electronically filed application. An application is considered filed the day the appropriate food stamp office receives the application containing the applicant's name and address and signed by either a responsible member of the household or the household's author-

ized representative. For SSI jointly processed households, the application shall be considered filed for normal processing purposes when the signed application is received by the SSA district office. For residents of public institutions who jointly apply for food stamps and SSI under SSA's Prerelease Program for the Institutionalized, the application shall be considered filed for normal processing purposes when the resident is released from the institution. Households entitled to expedited processing are specified at N.J.A.C. 10:87-2.28.

(b) An opportunity to participate consists of issuing benefits to the household's Families First account in accordance with any staggered issuance procedure which has been established by a CWA. The Families First card is the standard method of distributing Food Stamp Program benefits, serving also to provide cash benefits for Temporary Assistance for Needy Families and Debt Reduction Act child support bonus payments to eligible households. Use of the Families First card eliminates the need for the food stamp Authorization to Participate (ATP) documents by CWAs, except when a household is moving out of an Electronic Benefit Transfer (EBT) jurisdiction (see N.J.A.C. 10:88-5.3).

1. At the time that a CWA certifies a household's eligibility to receive benefits, the State's automated case file and issuance system (also known as FAMIS), creates a Families First account on the Families First automated account network. A Families First card shall be made available to the household not later than 30 days after the application for food stamp benefits, if eligible. The CWA then contacts the household for an initial training session and the selection of a Personal Identification Number (PIN). In no event shall the Families First card be mailed to the payee.

2. The replacement of food stamp benefits or credit adjustments to food stamp benefit accounts shall be carried out in accordance with N.J.A.C. 10:87-9.8 and 9.9.

3. The replacement of lost or misplaced Families First cards shall be carried out in accordance with N.J.A.C. 10:87-9.10 and 10:88-6.2.

(c) Determinations of eligibility shall be made in accordance with normal processing standards. For a household entitled to expedited processing as specified at N.J.A.C. 10:87-2.30, issuance of benefits shall be made in accordance with the following provisions:

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

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

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

See: 11 N.J.R. 517(a), 12 N.J.R. 195(b).

Added (b)1.

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

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

(c) added.

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

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

Changed "35" to "34".

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

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

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

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

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

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

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), inserted "either" following "with" and added ", or issuing benefits to the household's Families First account in accordance with any staggered issuance procedure which has been established by a CWA" at the end of the first sentence and substituted a reference to ATPs for a reference to benefits in the last sentence of the introductory paragraph, and rewrote 3.

Recodified from N.J.A.C. 10:87-2.30 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. 10:87-2.26 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 reason for delay was her refusal to cooperate. *M.R. v. Camden Cty. Welfare Bd.*, 1 N.J.A.R. 94 (1979).

10:87-2.27 Delays in processing

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

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

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

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

2. If one or more members of the household have failed to register for work (as required at N.J.A.C. 10:87-10.1), the CWA must have informed the household of the need to register for work and given the household at least 10 days from the date of notification to register those members.

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

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

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

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

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

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

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

(e) 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 must have offered, or have attempted to offer, assistance in the completion of the application.

1. On the 30th day, the CWA shall send a Notice of Denial to the household giving an additional 30 days to take the required action. Once the household takes the necessary action and submits the required information, the benefits will be prorated from the date the information is provided. If the household takes the required action within 60 days following the date that the application was filed, the CWA shall reopen the case without requiring a new application. No further action by the CWA is required after the Notice of Denial is sent if the household fails to take the required action within 60 days following the date the application was filed. That is, the case shall be closed and 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 Standard or Heating Utility Allowance at N.J.A.C. 10:87-5.10(a), as appropriate, unless the household elects 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.

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 application is in the mail to and from the household and the days the application is in the household's possession pending signature and mailing.

(d) 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 resources, eligibility for utility allowances, and all other verification factors required at N.J.A.C. 10:87-2.19 and 2.20 through collateral contacts or readily available documentary evidence:

(1) Benefits shall not be delayed beyond the delivery standards prescribed at N.J.A.C. 10:87-2.29 solely because these eligibility factors have not been verified;

iii. CWAs shall attempt to obtain as much additional verification as possible during the interview, but shall not delay the certification of households entitled to expedited service for the full time frame prescribed at N.J.A.C. 10:87-2.29 when the CWA has determined it is unlikely that other verification can be obtained within the expedited processing standards; and

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

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

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

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

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

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

2. Once the household has supplied the name of a collateral contact or has asked the CWA for assistance in locating one, the CWA shall promptly contact the collateral contact or otherwise assist the household in obtaining the necessary verification. When speaking with a collateral contact, CWAs shall disclose only pertinent information. The CWA shall not state that the person is applying for or receiving food stamp benefits, nor shall it volunteer household information or discuss any suspicion of wrongdoing.

3. Households which are certified on an expedited basis and have provided all necessary verification required at N.J.A.C. 10:87-2.19 and 2.20 prior to certification shall be assigned a normal certification period (see N.J.A.C. 10:87-6.20). If verification is postponed, the CWA shall

certify these households for the month of application (the month of application and the subsequent month for those households applying after the 15th of the month) or, at the option of the CWA, shall assign the normal certification period warranted by the household's circumstances. However, in no event shall benefits be continued past the month of application if verification is not obtained. Federally mandated reduction, suspension, or cancellation of allotments in a given month shall have no effect on the certification periods assigned to households.

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

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

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

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

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

i. Households which receive expedited service in a month in which a reduction is in effect and which are determined to be eligible, shall be issued allotments that are reduced in accordance with the reduction in effect. The reduced allotments shall be made available to the households within the time frame specified at N.J.A.C. 10:87-2.29.

ii. Households which receive expedited service in a month in which a suspension is in effect and that are determined to be eligible, shall have benefits issued within the time frame specified at N.J.A.C. 10:87-2.29

unless the suspension is still in effect at the time issuance is to be made.

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

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

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

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

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

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

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

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

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

(a)4 added.

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

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

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

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

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

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

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

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

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

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

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

(a)iv. through vii. added.

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

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

Substantially amended and recodified from 2.35.

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

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

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

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)1iii. inserted a reference to eligibility for utility allowances in the introductory paragraph.

Recodified from N.J.A.C. 10:87-2.34 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. 10:87-2.30, Normal processing standard, recodified to N.J.A.C. 10:87-2.26.

10:87-2.31 WFNJ/TANF eligibility determination (PA households)

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

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

2. Portions of initial WFNJ/TANF payments intended to retroactively cover a previous month shall be disregarded as lump-sum payments in accordance with N.J.A.C. 10:87-5.9(a)13.

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

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

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

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

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

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

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

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

Recodified with amendments from 2.36.

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

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

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

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.

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 stamps. 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. Not included are:

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 has not yet received or, is not currently entitled to, a money payment.

3. Categorically eligible recipients shall include those persons determined eligible to receive 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 stamps. 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; or
3. Institutionalized in a non-exempt facility (see N.J.A.C. 10:87-2.4);
4. When determining benefit levels for households containing ineligible individuals, the income and resources of such ineligible members shall be treated in accordance with procedures at N.J.A.C. 10:87-7.7.

(c) No household shall be considered categorically eligible for food stamps 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. The head of the household is disqualified for failure to comply with the work requirements contained at N.J.A.C. 10:87-10.1.
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 stamps 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 stamps, 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 stamps. For those factors of eligibility which are needed to determine both WFNJ/TANF cash assistance eligibility and food stamp 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 stamps and WFNJ/TANF/SSI benefits, or a household that has an WFNJ/TANF/SSI application pending and is denied food stamps 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 stamps shall have their benefits for the initial month prorated from the date from which the PA benefits are payable or the date of the original food stamp application, whichever is later.

(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 stamps and WFNJ/TANF/SSI and are subsequently denied may be required to file a new food stamp application or have their food stamp eligibility determined or continued on the basis of the original applications.

(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.

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 nonservice-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. A household member not the household head, 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 disqualified because the head of household failed to comply with a work registration requirement;
3. The household is ineligible under the striker provisions; or
4. 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.

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 (v) 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 farmworker 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 an eligible alien.

10:87-3.6 U.S. citizen defined

For the purposes of N.J.A.C. 10:87-3.5, the United States shall be defined as the 50 States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, Swain's Island, American Samoa, and the Northern Mariana Islands. Citizenship shall be verified only if questionable in accordance with N.J.A.C. 10:87-2.20(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) 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".

10:87-3.8 Eligible aliens; listing

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

1. A non-citizen who was lawfully admitted for permanent residence, as defined in Section 101(a)2 under the Immigration and Nationality Act (INA), to the United States, provided that he or she:

i. Beginning April 1, 2003, is a lawfully admitted or permanent resident for five years;

ii. Has worked 40 qualifying quarters of Social Security coverage or can be credited with such qualifying quarters. A qualifying quarter includes one worked by a parent of an alien while the alien was under 18, and a quarter worked by a spouse during their marriage if the alien remains married to the spouse or the spouse is deceased. On or after January 1, 1997, any calendar quarter in which the alien received benefits under the TANF, SSI, or Medicaid programs shall not be counted as a qualifying quarter for calculating a non-citizen's means-tested assistance benefit during that quarter; or

iii. Is either a veteran or on active duty in the U.S. Armed Forces, or is a spouse/unmarried dependent child of a veteran or individual on active duty.

2. A refugee or asylee admitted under Public Law 101-649, Sections 207 or 208, of the INA, respectively, or a non-citizen whose deportation was withheld under either Sections 243(h) or 241(b)3 of the INA, provided that he or she:

i. Entered the U.S. as a refugee; or

ii. Was granted asylum or deportation-withheld status; or

iii. Is either a veteran or on active duty in the U.S. Armed Forces, or is a spouse or unmarried dependent child of a veteran or individual on active duty.

3. A conditional entrant who was admitted under Section 203(a)7 of the INA (Public Law 101-649) provided that he or she:

i. Is either a veteran or on active duty in the U.S. Armed Forces, or is a spouse/unmarried dependent child of a veteran or individual on active duty.

4. A parolee admitted under Section 212(d)5 of the INA (Public Law 101-649) where such status has been granted for at least one year, provided that he or she:

i. Is either a veteran or on active duty in the U.S. Armed Forces, or is a spouse or unmarried dependent child of a veteran or individual on active duty.

5. Cuban and Haitian entrants as defined in Section 501(e) of the Refugee Education Assistance Act of 1980;

i. Cuban and Haitian entrants shall also be eligible if either a veteran or on active duty in the U.S. Armed Forces, or a spouse or unmarried dependent child of a veteran or individual on active duty.

6. Amerasian immigrants, admitted pursuant to Section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988;

7. Immigrants currently receiving payments or assistance for blindness or disability, as defined at N.J.A.C. 10:87-2.34, and are lawfully residing in the United States, effective October 1, 2002;

8. Qualified aliens under 18 years of age regardless of when they entered the United States, effective October 1, 2003;

9. American Indians born in Canada who possess at least 50 per centum of the blood of the American Indian race to whom the provisions of section 289 of the INA (8 U.S.C. § 1359) apply or a member of an Indian tribe as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. § 450b(e)) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

10. Individuals lawfully residing in the United States and were members of a Hmong or Highland Laotian tribe at the time that the tribe rendered assistance to United States personnel by taking part in a military or rescue operation during the Vietnam era beginning August 5, 1964, and ending May 7, 1975; the spouse or surviving spouse of such Hmong or Highland Laotian who is deceased, or an unmarried dependent child of such Hmong or Highland Laotian who is under the age of 18 or if a full time student under the age of 22; an unmarried child under the age of 18 or if a full time student under the age of 22 of such a deceased Hmong or Laotian provided the child was dependent upon him or her at the time of his or her death; or an unmarried disabled child age 18 or older if the child was disabled and dependent on the person prior to the child's 18th birthday. For purposes of this paragraph, child means the legally adopted or biological child of the person described in the first sentence of this paragraph;

11. Eligible individuals who are a battered immigrant spouse, battered immigrant child, or immigrant parent of a battered child or an immigrant child of a battered parent with a petition pending under 204(a)(1)(A) or (B) or 244(a)(3) of the INA.

i. Until such time as specific guidance is issued by the U.S. Department of Justice, the alien's statement, taken in the form of an affidavit, shall be accepted as documentation that the alien or the alien's child is subject to extreme cruelty and the alien and the child(ren) shall be eligible for assistance.

ii. CWAs are required to verify that the noncitizen has applied for permanent residence status.

iii. A non-citizen spouse or child subjected to battery or extreme cruelty in the United States may be eligible provided that:

(1) He or she is in a qualified alien category and meets a condition that allows qualified aliens to receive food stamp benefits; and

(2) There is a substantial connection between the battery or cruelty, and the noncitizen's need for FS benefits; and

(3) The noncitizen must have petitioned INS for permanent residence status; and

(4) The individual responsible for the battery or cruelty is not residing in the same household as the individual subjected to the battery or cruelty.

12. In accordance with the New Jersey Supplementary Food Stamp Program Act (P.L. 1998, c.32), a noncitizen who is, as of June 1, 1987 or thereafter, a special agricultural worker (SAW), lawfully admitted for temporary residence in accordance with Section 210(A) of the INA and who is ineligible for the Federal Food Stamp Program due to noncitizen eligibility criteria.

i. A noncitizen meeting the condition of (a)12 above must also meet one of the following criteria:

(1) Is mentally or physically incapacitated and not currently in receipt of temporary or permanent disability benefits issued by governmental or private sources, including Social Security disability payments. In the event that such disability is claimed but is not evident, a written statement from a physician or licensed or certified psychologist which substantiates the applicant's claim of disability shall be accepted by the county agency;

(2) Is receiving Work First New Jersey GA benefits and is considered unemployable; or

(3) Is the natural or adoptive parent, stepparent, or legal guardian residing with their dependent children under the age of 18, subject to the following:

(A) The noncitizen shall be required to participate in a WFNJ work activity (as defined at N.J.A.C. 10:90-4.3), which may include a program that is designed to assist the noncitizen in securing employment or preparing for employment.

(B) The noncitizen shall be eligible for child care or other services under the WFNJ Program, provided that he or she meets the conditions at N.J.A.C. 10:90-5.2.

(I) The noncitizen shall not be required to engage in a WFNJ work activity if child care is unavailable for the noncitizen's dependent child, in accordance with N.J.A.C. 10:90-4.9(d).

(II) The noncitizen shall be temporarily deferred from the WFNJ work activity, provided he or she meets the conditions at N.J.A.C. 10:90-4.9.

(C) A noncitizen who does not participate, without good cause, in the WFNJ work activity shall be sanctioned in accordance with N.J.A.C. 10:87-10.21.

ii. The noncitizen's date of entry into the United States shall be prior to August 22, 1996.

iii. In order to insure accurate fiscal administration, when food stamp eligibility is approved for a special agricultural worker, the name and case number shall be reported to: Supervisor, Food Stamp Program Fiscal Office, Office of Budget and Financial Management, Division of Family Development—PO Box 716, Trenton, N.J. 08625.

(b) An individual applicant would, upon application, meet the alien eligibility criteria as a refugee or asylee if he or she was granted such status, even though the individual might not be eligible under his or her status as an individual lawfully admitted for permanent residence.

(c) The CWA shall report to the Bureau of Citizenship and Immigration Services (BCIS) 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 Nationality Act. The report containing the name, address, and other identifying information must be submitted no later than the 45th day of the calendar quarter after which it was discovered. The information can be reported to: Director, Policy Directives and Instructions Branch, Bureau of Citizenship and Immigration Services, 425 I Street NW—Room 4034, Washington, DC 20536 (BCIS 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 BCIS. The status of known illegal aliens may also be officially determined based on a review

by the Executive Office of the BCIS, and supported by an order for 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 BCIS in cases where the BCIS has made the determination that the alien is in the country illegally.

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.

Cross References

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

Case Notes

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

10:87-3.9 Ineligible aliens

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

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

10:87-3.10 Income and resources of ineligible aliens and 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 I. 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.

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).

2. 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.

3. Resources shall include 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): "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.

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 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 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. State EITC benefits are an exempt resource in the month of receipt only, after which the EITC payment is considered as a countable resource;

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; and

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.

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).

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

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

1. Vehicles excluded by paragraph (a)1 above;
2. One licensed vehicle per household adult member, regardless of the use of the vehicle (this vehicle shall be considered the household's "primary" vehicle);
3. Any other vehicle a household member under 18 years of age (or an ineligible alien or disqualified household member under 18 years of age whose resources are being considered available to the household) drives to commute to and from employment, or to seek employment. This equity exclusion applies during temporary periods of unemployment to a vehicle that a household member under 18 years of age customarily drives to commute to and from employment; and
4. Any licensed vehicles used to transport household members (or excluded individuals whose resources are being considered available to the household) to and from employment or to and from training or education which is preparatory to employment, or to seek employment in compliance with the employment and training criteria. A vehicle customarily used to commute to and from employment shall be covered by this equity value exclusion during temporary periods of unemployment.

(e) In the event a licensed vehicle is assigned both a fair market value in excess of \$9,500 and an equity value, only the greater of the two amounts shall be counted as a resource. For example, a second car that is not used by a household member to go to work will be evaluated for both fair market and equity values. If the fair market value is \$10,000 and the equity value is \$1,000, the household shall be credited with only the \$1,000 equity value, and the \$500.00 excess fair market value will not be counted.

(f) In summary, each licensed vehicle shall be handled as follows: First, it will be evaluated to determine if it is exempt as an income producer or as a home. If not exempt, it will be evaluated to determine if its fair market value exceeds \$9,500. If worth more than \$9,500, the portion in excess of \$9,500 shall be counted as a resource. The vehicle will also be evaluated to see if it is equity-exempt. If not

equity-exempt, the equity value will be counted as a resource. If the vehicle has a countable market value of more than \$9,500 and also has a countable equity value, only the greater of the two amounts shall be counted as a resource.

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

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

Language added clarifying what constitutes vehicles for handicap use.

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

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

Substantially amended.

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

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

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

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), (e) 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.

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 determina-

tion (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.

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

(c) Rules for failure to comply with public assistance (PA) program requirements (also known as "The Riverside Rule") are as follows:

1. A CWA shall not increase food stamp benefits when a household's cash assistance received under WFNJ have been decreased (reduced, suspended or terminated) due to a failure to comply with a requirement of that program. In New Jersey, those programs would be the TANF and GA components of WFNJ. However, the Riverside Rule does not apply to the Supplemental Living Support payments.

2. 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.

3. The PA amount to be considered as income is the difference between the pre and post-sanction amounts. This amount shall be used for food stamp purposes until the sanction is removed. The amount shall be added to the PA benefit amount actually received by the household to compute food stamp benefits. In no event, however, shall the amount of the Riverside Rule income penalty exceed the amount of PA the household would have received had the noncompliant individual not been removed from the household.

4. The Riverside Rule shall be applied when PA decreases due to non compliance. The Riverside Rule shall be applied even in situations where the PA requirement is not comparable to a food stamp requirement, or where the household is exempt from food stamp work registration. The Riverside Rule shall be applied even when a household may also be subject to a penalty under the Food Stamp Program.

5. 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.

6. In the event that the Riverside Rule is invoked and the household's PA is terminated, the Riverside Rule penalty shall apply for three months after the termination of PA benefits.

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

8. The Riverside Rule penalty shall also apply to individuals who had their PA benefits terminated, and then subsequently apply for nonpublic assistance (NPA) food stamp benefits. In that case, the amount of the PA sanction shall be treated as unearned income for three months after the PA program termination in determining the household's NPA food stamp benefit.

9. 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.

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.

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 attendance 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 nonrecurring 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).

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.

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.

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 (over-the-counter items, however, prescribed by a licensed practitioner and which may be purchased with food stamps, are not deductible); 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 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;

(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 coupon allotment shall be deducted if the household furnishes the majority of the attendant's meals. The allotment for this meal related deduction shall be that in effect at the time of initial certification. The CWA shall update the allotment amount no later than the next 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 receiv-

ing 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 includes 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 coupon allotment 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).

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(b).

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. 10:87-2.33(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.

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

Substantially amended.

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

Sec: 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.

Sec: 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. *Ehrenstorfer 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.

Sec: 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 household's income which is uncertain shall not be counted by the CWA. For example, a household anticipating income from a new source, such as a new job or public assistance benefits recently applied for, may be uncertain as to the timing and amount of the initial payment. These moneys shall not be anticipated by the CWA unless there is reasonable certainty concerning the month in which the payment will be received and in what amount. Households shall be advised to report all changes in gross monthly income in accordance with N.J.A.C. 10:87-9.5(b).

1. If the exact amount of the income is not known, the portion that can be anticipated with reasonable certainty shall be considered income.

2. In cases where the receipt of income is reasonably certain but the monthly amount may fluctuate, the household may elect to average income in accordance with (f) below.

(c) Income received during the most recent 30-day period shall be used as an indicator of anticipated income. However, the CWA shall not use past income as an indicator of income anticipated for the certification if changes in income have occurred or can be anticipated.

1. If income fluctuates to the extent that a 30-day period alone cannot provide an accurate indication of anticipated income, the CWA and the household may use a longer period of past time if it will provide a more accurate indication of anticipated fluctuations in future income.

2. If the household's income fluctuates seasonally, it may be appropriate to use the most recent season comparable to the certification period, rather than the last 30 days, as one indicator of anticipated income. The CWA shall exercise particular caution in using income from a past season as an indicator of income for the certification period. In many cases of seasonally fluctuating income, the income also fluctuates from one season in one year to the same season in the next year.

3. In no event shall the CWA automatically attribute to the household the amounts of any past income. The CWA shall not use past income as an indicator of anticipated income when changes in income have occurred or can be anticipated during the certification period.

4. For the purpose of determining countable energy assistance payments, the CWA shall consider similar assistance received by the household in the previous certification period, and project those monthly amounts over the next certification period. If the CWA cannot be reasonably certain that the household will receive those moneys, then those funds shall not be counted. The CWA shall also ascertain that the household's anticipated utility expenses, during any one month of the forthcoming certification period, will exceed the amount of excluded energy assistance.

(d) Income anticipated during the certification period shall be counted as income only in the month it is expected to be received, unless the income is averaged in accordance with (f) below.

1. Whenever a full month's income is anticipated but is received on a weekly or bi-weekly basis, the CWA shall convert the income to a monthly amount by multiplying weekly amounts by 4.333 and bi-weekly amounts by 2.167.

2. Non-recurring lump-sum payments shall be counted as a resource starting in the month received and shall not be counted as income (see N.J.A.C. 10:87-4.3 and 5.9(a)13).

3. Wages held at the request of the employee shall be considered income to the household in the month the wages would otherwise have been paid by the employer. However, wages held by the employer as a general practice, even if in violation of law, shall not be counted as income to the household, unless the household anticipates that it will ask for and receive an advance, or that it will receive income from wages that were previously held by the employer as a general practice and that were, therefore, not previously counted as income by the CWA.

4. Advances on wages shall count as income only if the household anticipates that it will ask for and receive such an advance. Such advances on wages shall count as income in the month received only if reasonably anticipated.

5. Households receiving public assistance payments, (for example WFNJ or SSI) or income on a recurring monthly or semi-monthly basis shall not have their monthly income varied merely because of changes in mailing cycles or pay dates or because weekends or holidays cause additional payments to be received in a month.

(e) Households which, by contract or self-employment, derive their annual income in a period of time shorter than one year shall have that income averaged over a 12-month period, provided the income from the contract is not received on an hourly or piecework basis. These households may include school employees, sharecroppers, farmers, and other self-employed households. However, these provisions do not apply to migrant or seasonal farm workers or to destitute households. The procedures for averaging self-employed income are described at N.J.A.C. 10:87-7.2 and 7.3.

(f) Households, except destitute households, may elect to have income averaged. Income shall not be averaged for a destitute household since averaging would result in assigning to the month of application income from future periods that is not available to the destitute household for its current food needs.

1. To average income, the CWA shall use the household's anticipation of income fluctuations over the certification period. The number of months used to arrive at the average income need not be the same as the number of months in the certification period. For example, if fluctuating income for the past 30 days and the month of application are known and, with reasonable certainty, are representative of the income fluctuations anticipated for the coming months, the income from the two known months may be averaged and projected over a certification period of longer than two months.

(g) Households receiving earned and unearned educational income shall have such income, after exclusions, averaged over the period for which it was intended to cover. The CWA shall apply countable educational income beginning with the first month in which the student expects to

receive those funds. In the event that the student cannot anticipate, with reasonable certainty, when he or she will receive the student income, then receipt of that income shall be treated and processed as a client reportable change, as per N.J.A.C. 10:87-9.5(b) and (c).

(h) With certain exceptions required by Federal statute, any Disregarded Child Support (DCS) payment (see N.J.A.C. 10:87-5.7(b)2) which is issued to a household in a particular month shall be utilized to calculate the following month's food stamp benefit. With the exception of those categories listed in (h)1 through 4 below, retrospective budgeting of DCS payments shall be utilized at all times, including during initial application and recertification. The exceptions, which require that DCS payments be treated prospectively, are as follows:

1. Migrant or seasonal farmworker households;
2. Households in which all members are homeless individuals;
3. Households with no earned income in which all adult members are elderly or disabled; and
4. Households residing on Indian reservations.

Amended by R.1979 d.459, January 1, 1980.

See: 12 N.J.R. 40(c).

(a)3i: Changed "2.26" to "2.167".

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

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

(a)3ii: "N.J.A.C. . . . 10:87-5.9(a)10 was (a)9".

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

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

Substantially amended.

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

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

In (c), added 4. In (g), describes student income for purpose of determining food stamp eligibility and level of benefit.

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

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

In (d), rewrote 5; in (g), rewrote the first sentence, and substituted a reference to educational income for a reference to grants, loans and other scholarships in the second sentence; and added (h).

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 for a reference to AFDC 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.

10:87-6.10 Determining deductions

Deductible expenses include only certain costs of dependent care, child support payments, shelter and medical costs as described in N.J.A.C. 10:87-5.10.

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

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

Added "and medical costs".

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

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

Inserted a reference to child support payments.

10:87-6.11 Disallowed expenses

(a) The following shall not be included in the determination of deductions:

1. An expense covered by an excluded reimbursement or vendor payment (see N.J.A.C. 10:87-5.9) except an energy assistance vendor payment made under the Low Income Home Energy Assistance Act (LIHEAA), shall not be deductible. For example, that portion of rent covered by excluded vendor payments shall not be calculated as part of the household's shelter cost. However, that portion of an allowable medical expense which is not reimbursable shall be included as part of the household's medical expenses. Households entitled to the medical deduction shall have the nonreimbursable portion considered at the time the amount of reimbursement is received or can otherwise be verified.

2. Expenses shall not be deductible if the household provides compensation for the service through an in-kind benefit or if another household member provides the service. For example, a dependent care deduction shall not be allowed if compensation for the care is provided in the form of an in-kind benefit such as food. Expenses shall only be deductible if the service is provided by someone outside of the household and the household makes a money payment for the service.

3. When a public housing authority directly receives a household's HUD utility allowance and applies it toward the household's rent (see N.J.A.C. 10:87-5.9(a)3i), the "net" rent that the household is obligated to pay shall be considered the rental expense for food stamp purposes.

4. Any educational expense, in whole or part, covered by educational income which has been excluded in accordance with N.J.A.C. 10:87-5.11, shall not be deductible.

5. A dependent care expense which is reimbursed or paid for by the Child Care and Development Fund or the Transitional Child Care Program shall not be deductible.

As amended, R.1979 d.459, effective January 1, 1980.

See: 12 N.J.R. 40(c).

(a)1: Added third and fourth sentences.

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

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

Substantially amended.

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 3 through 5.

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, deleted the introductory phrase.

10:87-6.12 Billed expenses

(a) Except as provided in N.J.A.C. 10:87-6.13, a deduction shall be allowed only in the month the expense is billed or otherwise becomes due, regardless of when the household intends to pay the expense. For example, rent which is due each month shall be included in the household's shelter costs, even if the household has not yet paid the expense.

(b) Amounts carried forward from past billing periods are not deductible, even if included with the most recent billing and actually paid by the household. In any event, a particular expense may only be deducted once.

(c) The child support payment shall be budgeted in accordance with N.J.A.C. 10:87-6.13(d).

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).

Added (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 " Amounts carried forward:" from the first sentence.

10:87-6.13 Averaging expenses

(a) Households may elect to have fluctuating expenses averaged. Households may also elect to have expenses which are billed less often than monthly averaged forward over the interval between scheduled billings, or, if there is no scheduled interval, averaged forward over the period the expense is intended to cover. For example, if a household receives a single bill in February which covers a three-month supply of fuel oil, the bill may be averaged over February, March and April.

(b) The household may elect to have a one-time only expense, such as an installation charge for utilities, averaged over the entire certification period in which it is billed. Households reporting one-time only medical expenses during their certification period may elect to have a one-time deduction or to have the expense averaged over the remaining months of their certification period. Averaging would begin with the month the change becomes effective. The CWA worker shall explain to the household the advantages of averaging the expense or treating it as a one-time deduction.

(c) If a household provides adequate verification at the time of certification, the household may elect to have a medical expense averaged over the entire certification period. If a new medical expense is reported during the certification period, the household may elect to have a one-time deduction or to have the expense averaged over the remaining months of the certification period. If the reported expense is incurred in the last month of the certification period, it may also be averaged over the following certification period.

(d) For the purpose of determining a household's child support deduction, the CWA shall anticipate the household's child support payments for the certification period, including anticipated payments on arrearages, and then arrive at an average deduction amount to apply for each month of the certification period. The average may be adjusted during the certification period to reflect any changes that are reported by the household, or which otherwise become known to the CWA and are considered to be verified upon receipt. At recertification, the CWA shall obtain updated information on which to base a new average for the new certification period.

As amended, R.1979 d.459, effective January 1, 1980.

See: 12 N.J.R. 40(c).

(b): Added second and third sentences.

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

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

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

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

Added (c) and (d).

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; in (d), inserted "and are considered to be verified upon receipt" following "CWA" in the second sentence.

10:87-6.14 Anticipating expenses

(a) The CWA shall calculate a household's expenses based on expenses for which the household expects to be billed during the certification period. Anticipation of the expense shall be based on the most recent month's bills, unless the household is reasonably certain a change will occur.

(b) When the household does not qualify for the utility allowance, the CWA may anticipate changes during the certification period based on last year's bills updated by overall price increases; or, if only the most recent bill is available, utility cost increases or decreases over the months of the certification period may be based on utility company estimates for the type of dwelling and utilities used by the household.

(c) The CWA shall not average past expenses, such as utility bills for the last several months, as a method of anticipating utility costs for the certification period.

(d) The income conversion procedures at N.J.A.C. 10:87-6.9(d)1 shall also apply to expenses billed on a weekly or biweekly basis.

As amended, R.1979 d.459, effective January 1, 1980.

See: 12 N.J.R. 40(c).

Added subsection (d).

As amended, R.1983 d.72, effective February 28, 1983.

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

Originally filed as an emergency adoption (R.1982 d.503) on December 30, 1982. Readopted as R.1983 d.72. The word standard changed to allowance.

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

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

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 "does not qualify for the" for "is not claiming a" in the first sentence.

10:87-6.15 Anticipating medical expenses

(a) A household eligible for the excess medical deduction shall be allowed, at the time of certification, to report and verify medical expenses which its qualified members expect to incur during the certification period.

(b) If a household reports an anticipated medical expense at the time of certification, but is unable to provide any verification to substantiate that anticipated expense, the household shall be told that the expense will be allowed

when the verification is provided during the certification period.

1. The FSP-33, Notice of Required Verification, shall be used to advise the household of the information which is needed (see N.J.A.C. 10:87-2.22(d)3).

(c) If the household can provide verification as to the reasonableness of the anticipated expense, then the expense will be allowed beginning at the time of certification.

(d) Households reporting one-time only medical expenses during their certification period may elect to have a one-time deduction or to have the expense averaged over the remaining months of their certification period. Averaging would begin the month the change becomes effective.

1. For a household certified for 24 months that has a one-time medical expense, the CWAs shall use the following procedure. In averaging any one-time medical expense incurred by a household during the first 12 months, the case worker shall give the household the option of deducting the expense for one month, averaging the expense over the remainder of the first 12 months in the certification period, or averaging the expense over the remaining months in the certification period. One-time expenses reported after the 12th of the month of the certification period will be deducted in one month or averaged over the remaining months in the certification period, at the household's option.

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

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

Former N.J.A.C. 10:87-6.15, Calculating net and gross income and benefit levels, recodified to N.J.A.C. 10:87-6.16.

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)1, amended the N.J.A.C. reference; added (d).

10:87-6.16 Calculating net and gross income and benefit levels

(a) The procedures below shall be used to calculate net and gross income and benefit levels.

(b) To determine a household's net monthly income, the CWA shall follow steps (b)1 through 10 below. To determine a household's total gross income, the CWA shall add, after rounding (according to procedures at (c)1 below), each individual's monthly earned and unearned income(s). This total, minus income exclusions (see N.J.A.C. 10:87-5.9), provides the sum total gross monthly income figure which shall be used to determine the household's eligibility in accordance with (d)1 or 2 below.

1. Step 1: Add the gross monthly income earned by all household members minus earned income exclusions (see N.J.A.C. 10:87-5.9) to determine the household's total gross earned income. Net losses from the self-employment income of a farmer shall be offset in accordance with N.J.A.C. 10:87-7.3(a).

2. Step 2: Multiply the total gross monthly earned income by 80 percent to determine the net monthly earned income.

3. Step 3: Add to net monthly earned income, the total monthly unearned income of all household members, minus income exclusions (see N.J.A.C. 10:87-5.9).

4. Step 4: Subtract the standard deduction (see N.J.A.C. 10:87-12.1(a)).

5. Step 5: If the household is entitled to an excess medical deduction as provided at N.J.A.C. 10:87-5.10(a)3, determine if total medical expenses exceed \$35.00. If so, subtract the amount that exceeds \$35.00.

6. Step 6: Subtract monthly dependent care expenses, if any, up to the maximum amount allowed for each dependent for whom the household renders payment.

7. Step 7: If the household is entitled to a child support deduction as provided at N.J.A.C. 10:87-5.10(a)5, subtract the amount.

8. Step 8: If the household is entitled to the Homeless Shelter Allowance, in lieu of actual shelter expenses, as provided at N.J.A.C. 10:87-5.10(a)6v, subtract the amount.

9. Step 9: Except for household claiming the homeless shelter allowance, total the allowable shelter expenses to determine shelter costs. Subtract 50 percent of the household's monthly net income (after all the above deductions have been subtracted) from the total shelter costs. The remaining amount, if any, is the excess shelter cost. If there is no excess shelter cost, the net monthly income has been determined. If there is excess shelter cost, compute the shelter deduction in Step 10.

10. Step 10: Subtract the excess shelter cost up to the maximum (unless the household is entitled to the full amount of its excess shelter expenses) from the household's monthly net income after all other applicable deductions. The maximum amount allowed for shelter (for those households subject to a shelter maximum) is the maximum in N.J.A.C. 10:87-12.1(b). Households not subject to a capped shelter expense shall have the full amount exceeding 50 percent of their net income subtracted. The household's net monthly income now has been determined.

(c) The CWA shall, when calculating food stamp gross income and benefit levels, round down those income and deduction amounts ending in \$.01 through \$.49 and round-up those ending in \$.50 through \$.99 to the nearest dollar. The CWA shall use the rounding procedure for both the work allowance and shelter cost deductions.

1. The CWA shall round the following, up and down:

- i. Self-employment income;
- ii. Earned income;

- iii. Public Assistance benefits;
- iv. Supplemental Security Income benefits;
- v. Retirement Survivors Disability Insurance benefits;
- vi. Unemployment/workers compensation;
- vii. General Assistance benefits;
- viii. Other unearned income;
- ix. Dependent care payments;
- x. Child support payments;
- xi. Medical expenses; and
- xii. Total shelter costs.

(d) Except for migrant, seasonal farm worker, and homeless households considered destitute at N.J.A.C. 10:87-6.17, the following eligibility and benefit determinations shall apply:

1. Households which contain an elderly or disabled member (as defined at N.J.A.C. 10:87-2.34 shall have the household's net income, as calculated in (b) above, compared to the monthly income eligibility standard for the appropriate household size at N.J.A.C. 10:87-12.3 to determine eligibility for the month.

2. Households that do not contain an elderly or disabled member shall have their gross monthly income compared to the monthly income eligibility standards at N.J.A.C. 10:87-12.4, for the appropriate household size and shall have their net monthly income, as calculated in (b) above, compared to the monthly income eligibility standard for the appropriate household size at N.J.A.C. 10:87-12.3 to determine eligibility for the month.

3. After eligibility has been determined in accordance with (d)1 or 2 above, the CWA shall use the household's net monthly food stamp income to determine the amount of the household's benefits in accordance with N.J.A.C. 10:87-12.6.

i. If the allotment for an initial month is less than \$10.00, or prorated to less than \$10.00 in accordance with N.J.A.C. 10:87-6.2(c), no benefits shall be issued to the household for the initial month.

ii. Except during an initial month, all eligible one- and two-person households shall receive a minimum monthly allotment of \$10.00 and all eligible households with three or more members entitled to \$1.00, \$3.00 and \$5.00 allotments shall have their allotments rounded to \$2.00, \$4.00 and \$6.00, respectively.

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

(a)1: Added v; renumbered v-vii as v-viii; added language covering uncapped shelter expenses and clarified language.

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

See: 13 N.J.R. 769(a). Readopted, R.1981 d.517, effective December 31, 1981.

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

Section substantially corrected.

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

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

Originally filed as an emergency adoption (R.1982 d.503) on December 30, 1982. Changes upon readoption were precipitated by emergency adoption (R.1983 d.38) filed on January 31, 1983. Readopted as R.1983 d.72. Language has been added pertaining to eligibility standards for households with no elderly or disabled members, and to clarify the determination of gross monthly income.

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

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

Substantially amended and recodified.

Amended by R.1990 d.437, effective September 4, 1990.

See: 22 N.J.R. 1670(a), 22 N.J.R. 2715(a).

In (b)4 and (b)8, revised N.J.A.C. citations.

Recodified from N.J.A.C. 10:87-6.15 and 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), inserted new 7 and 8, recodified former 7 and 8 as 9 and 10, and made corresponding internal reference changes. Former N.J.A.C. 10:87-6.16, Destitute households, recodified to N.J.A.C. 10:87-6.17. 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.

10:87-6.17 Destitute households

Migrant or seasonal farmworker households may have little or no income at the time of application and may be in need of immediate food assistance, even though they receive income at some other time during the month of application. The following procedures shall be used to determine when migrant or seasonal farmworker households in these circumstances may be considered destitute and, therefore, entitled to expedited service and special income calculation procedures. Destitute households shall have their eligibility determined by computing either their gross or net income, as appropriate, and comparing either the gross or net income to the corresponding income eligibility standard. Households other than migrant or seasonal farmworker households shall not be considered destitute.

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

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

"Destitute . . . eligibility standard" added.

As amended, R.1983 d.121, effective April 24, 1983. See: 15 N.J.R. 247(a), 15 N.J.R. 625(b).

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

Recodified from N.J.A.C. 10:87-6.16 by R.1998 d.498, effective October 5, 1998.

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

Former N.J.A.C. 10:87-6.17, Destitute households with income from a terminated source, recodified to N.J.A.C. 10:87-6.18.

10:87-6.18 Destitute households with income from a terminated source

(a) Migrant or seasonal farmworker households whose only income for the month of application was received prior

to the date of application, and was from a terminated source, shall be considered destitute households and shall be provided expedited service.

(b) If income is normally received on a monthly or more frequent basis, it shall be considered as coming from a terminated source if it will not be received again from the same source during the balance of the month of application or during the following month.

(c) If income is normally received less often than monthly such income shall be considered as coming from a terminated source if it will not be received in the month in which the next payment would normally be received.

1. Example: If income is received on a quarterly basis (e.g., on January 1, April 1, July 1, and October 1), and the household applies in mid-January, the income should not be considered as coming from a terminated source merely because no further payments will be received in the balance of January or in February. The test for whether or not this household's income is terminated is whether the income is anticipated to be received in April.

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

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

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

Recodified from N.J.A.C. 10:87-6.17 by R.1998 d.498, effective October 5, 1998.

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

Former N.J.A.C. 10:87-6.18, Destitute households with income from a new source, recodified to N.J.A.C. 10:87-6.19.

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

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

In (b) and (c), deleted the introductory phrases.

10:87-6.19 Destitute households with income from a new source

(a) Migrant or seasonal farmworker households whose only income for the month of application is from a new source shall be considered destitute and shall be provided expedited service only if income of more than \$25.00 from a new source will not be received by the 10th calendar day after the date of application.

(b) Income which is normally received on a monthly or more frequent basis shall be considered to be from a new source only if more than \$25.00 has not been received from that new source within 30 days prior to the date the application was filed.

(c) If income is normally received less often than monthly, it shall be considered to be from a new source only if more than \$25.00 was not received within the last normal interval between payments.

1. Example: If a household applies in early January and is expecting to be paid every three months starting in late January, the income shall be considered to be from a new

source only if no more than \$25.00 was received from the source during October or since that time.

(d) Households may receive both income from a terminated source prior to and income from a new source after the date of application, and still be considered destitute if they receive no other income in the month of application and more than \$25.00 from the new source will not be received by the 10th day after the date of application.

(e) Destitute households shall have their eligibility and level of benefits calculated for the month of application by considering only income that is received between the first of the month and the date of application. Any income from a new source that is anticipated after the day of application shall be disregarded.

(f) Some employers provide travel advances to cover travel costs of new employees who must travel to the location of their new employment. To the extent that these payments are excluded as reimbursements (see N.J.A.C. 10:87-5.9(a)6), receipt of travel advance will not affect the determination of when a household is destitute.

1. If the travel advance is, by written contract, an advance on wages which will be subtracted from wages later earned by the employee, rather than a reimbursement, the wage advance shall count as income. Nevertheless the receipt of a wage advance for travel costs of a new employee shall neither affect the determination of whether subsequent payments from the employer are from a new source of income, nor whether a household shall be considered destitute.

i. Example: If a household that applies on May 10, has received a \$50.00 advance for travel from its new employer on May 1 that, by written contract, is an advance on wages, but will not start receiving any other wages from the employer until May 30, shall be considered destitute. The May 30 payment shall be disregarded, but the wage received prior to the date of application shall be counted as income.

(g) A household member who changes jobs but continues to work for the same employer shall be considered as still receiving income from the same source. A migrant farm worker's source of income shall be considered to be the grower for whom the migrant is working at a particular point in time, rather than the crew chief. A migrant who travels with the same crew chief but moves from one grower to another is considered to have moved from a terminated income source to a new source.

(h) The above expedited procedures apply at initial application and at recertification, but only for the first month of each certification period. At recertification, income from a new source is disregarded in the first month of the certification period if income of more than \$25.00 will not be received from this new source by the 10th calendar day after the date of the household's normal issuance cycle.

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

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

(f)1: Added language on "written contract".

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

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

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

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

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

Substantially amended.

Recodified from N.J.A.C. 10:87-6.18 by R.1998 d.498, effective October 5, 1998.

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

Former N.J.A.C. 10:87-6.19, Certification periods, recodified to N.J.A.C. 10:87-6.20.

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.

10:87-6.20 Certification periods

The CWA shall certify each eligible household for a definite period of time. CWAs shall assign the longest certification period possible based on the predictability of the household's circumstances. The first month of the certification period will be the first month for which the household is eligible to participate. The certification period cannot exceed 12 months, except for households in which all adult members are elderly or disabled, which are to be certified for up to 24 months with at least one CWA contact at least every 12 months. At the expiration of each certification period, entitlement to food stamp benefits ends. Further eligibility shall be established only upon a recertification based upon a newly completed application, an interview, and such verification as required by N.J.A.C. 10:87-2.19 and 2.20.

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

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

"A federally mandated . . . household." added.

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

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

Added (b).

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

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

In (a): revised N.J.A.C. reference.

Recodified from N.J.A.C. 10:87-6.19 by R.1998 d.498, effective October 5, 1998.

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

Former N.J.A.C. 10:87-6.20, Suspension of categorically eligible households, recodified to N.J.A.C. 10:87-6.21.

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

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

Undesignated and rewrote former (a); deleted (h).

10:87-6.21 Certification period length

(a) Except for households assigned to six month reporting (see N.J.A.C. 10:87-9.5(b)), the CWA shall assign each household the longest certification period possible, consistent with its circumstances.

1. Households should be assigned certification periods of at least six months, unless a household's circumstances are unstable or the household contains an ABAWD.

2. Households with unstable circumstances, such as households with zero net income, and households with an ABAWD member, should be assigned certification periods consistent with their circumstances, but generally no less than three months.

3. Households may be assigned one or two month certification periods when it appears likely the household will become ineligible for food stamps in the near future.

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

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

This section was "No continuation".

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

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

Recodified from N.J.A.C. 10:87-6.20 and 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)6, inserted "from the date the household reported the change" following "period". Former N.J.A.C. 10:87-6.21, Calendar months, recodified to N.J.A.C. 10:87-6.22.

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 "Suspension of categorically eligible households".

10:87-6.22 Calendar months

Certification periods shall conform to calendar months. At initial application, the first month in the certification period shall generally be the month of application, even if the household's eligibility is not determined until a subsequent month. For example, if a household files an application in January and the application is not processed until February, a six-month certification period would include January through June. Upon recertification, the certification period will begin with the month following the last month of the previous certification period.

Recodified from N.J.A.C. 10:87-6.21 by R.1998 d.498, effective October 5, 1998.

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

Former N.J.A.C. 10:87-6.22, PA households, recodified to N.J.A.C. 10:87-6.23.

10:87-6.23 PA households

(a) Households in which all members are included in a single WFNJ assistance unit (or combination of assistance units) shall have their food stamp certification periods expire in conjunction with the scheduled redetermination of WFNJ assistance. Specific food stamp certification periods must be assigned to these households in accordance with the provisions of this paragraph. The certification periods may be extended in order to align the food stamp recertification date with the WFNJ redetermination date, but the certification periods shall only be extended when households are initially approved for WFNJ assistance. If the CWA extends a household's certification period, it shall advise the household of the new certification ending date with a notice of the change.

(b) Households in which all members receive assistance under Title XIX of the Social Security Act or other medical assistance program may have their food stamp recertification

at the same time they are redetermined for assistance under Title XIX or other medical assistance program. The county agency must follow the same requirements that apply in (a) above.

As amended, R.1979 d.422, effective October 18, 1979.

See: 11 N.J.R. 379(a), 11 N.J.R. 559(d).

As amended, R.1984 d.17, effective February 6, 1984.

See: 15 N.J.R. 1821(a), 16 N.J.R. 246(a).

Clarification of Food Stamp Certification versus AFDC certification.

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

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

Substantially amended.

Recodified from N.J.A.C. 10:87-6.22 and 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. Former N.J.A.C. 10:87-6.23, Other households, recodified to N.J.A.C. 10:87-6.24.

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 "shortened or" in the third sentence and added the fourth sentence; deleted former (b) and (c) and recodified former (d) as new (b).

10:87-6.24 Shortening certification periods

The CWA shall not end a household's certification period earlier than its assigned termination date, unless the CWA receives information that the household has become ineligible, or the household has not complied with the requirements of providing clarification in response to a Request For Contact. Loss of public assistance or a change in employment status is not sufficient in and of itself to meet the criteria necessary for shortening the certification period. The CWA shall close the household's case or adjust the household's benefit amount in accordance with the Request for Contact (RFC) process in response to reported changes. The CWA may not use the Notice of Expiration to shorten a certification period.

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. 10:87-6.24, Other households, recodified to N.J.A.C. 10:87-6.26.

10:87-6.25 Lengthening certification periods

The CWA may lengthen a household's current certification period once it is established, as long as the total months of the certification period do not exceed 24 months for households in which all adult members are elderly or disabled, or 12 months for other households. If the CWA extends a certification period, it shall advise the household of the new certification ending date with a notice containing the same information as the notice of eligibility.

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

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

10:87-6.26 Other household certifications

(a) Households eligible for a certification period of three months or less at the time of certification, shall have their certification periods increased by one month if the certification process is completed after the 15th day of the month of

application and the household's circumstances warrant it. For example, if a household eligible for a three-month certification period makes application in June and is not certified until late June or early July, the certification period would begin in June and go through September.

(b) Unless a household is eligible for six month reporting, households containing one or more persons subject to a lock-out or on strike from their place of employment shall not be certified for periods of more than one month, if the household is certified before the 15th day of the month of application. Otherwise, the maximum certification period shall be for two months.

(c) Unless a household is eligible for six month reporting, households shall be certified for one or two months, as appropriate, when the household cannot reasonably predict what its circumstances will be in the near future, or when there is a substantial likelihood of frequent and significant changes in income or household status; for example, day laborers and migrant workers during the work season when income is uncertain and subject to extreme fluctuations during the work season due to the uncertainty of continuous employment or due to bad weather and other circumstances.

(d) Households shall be certified for six months if there is little likelihood of changes in income and household status; for example, households with a stable income record and for which major changes in income, deductions or composition are not anticipated.

(e) Households consisting entirely of unemployable or elderly persons with very stable income shall be certified for 12 to 24 months provided other household circumstances are expected to remain stable; for example, Social Security recipients, SSI recipients and persons who receive pensions or disability payments.

(f) Households whose primary source of income is from self-employment (including self-employed farmers) or from regular farm employment with the same employer shall be certified for six months and put on six-month reporting. Six-month certification periods may be assigned to farm workers who are provided their annual salaries on a scheduled monthly basis that does not change as the amount of work changes.

(g) A household comprised entirely of elderly or disabled individuals (see N.J.A.C. 10:87-2.34) may be allowed a 24-month certification period, provided that circumstances otherwise warrant. At the 12th month of the 24-month certification, the CWA shall make one contact with the household to determine whether any changes have occurred. The method of contact, as well as any changes reported by the household, shall be documented in the household's case record.

(h) Households eligible for a child support deduction that have no record of regular child support payments or of child

support arrearages shall be certified for no more than three months. Households with a record of regular child support and arrearage payments shall be certified for no more than six months. These requirements do not apply to households whose certification periods are established in accordance with N.J.A.C. 10:87-6.22 or 6.26(a) or households eligible for six month reporting.

As amended, R.1981 d.97, effective April 9, 1981.

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

(a)7 deleted.

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

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

Added (a)7 and 8.

Recodified from N.J.A.C. 10:87-6.23 and 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 7 and 8.

Recodified from N.J.A.C. 10:87-6.24 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.

SUBCHAPTER 7. SPECIAL INCOME CIRCUMSTANCES

10:87-7.1 Applicability

The procedures in this subchapter are to be used in conjunction with the certification procedures in N.J.A.C. 10:87-6 to determine eligibility and benefit levels for households with special income circumstances.

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

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

Substituted "N.J.A.C. 10:87-6" for "subchapter 6".

10:87-7.2 Self-employment income

(a) The CWA shall calculate a household's self-employment income as follows:

1. Self-employment income shall be averaged over the period the income is intended to cover, even if the household receives income from other sources. If the averaged amount does not accurately reflect the household's actual circumstances because the household has experienced a substantial increase or decrease in business, the CWA shall calculate the self-employment income on the basis of anticipated, not prior, earnings (such as a tax return).

- i. If a household's self-employment enterprise has been in existence for less than a year, the income from that self-employment enterprise shall be averaged over the period of time the business has been in operation and the monthly amount projected for the coming year.

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

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

Substituted "N.J.A.C. 10:87-7.10" for "section 10 of this subchapter".
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. 10:87-7.2, Self-employment income, repealed.

10:87-7.3 Determining monthly income from self-employment

(a) For the period of time over which self-employment income is determined, the CWA shall add all gross self-employment income (either actual or anticipated) and capital gains as specified in this subchapter, exclude the costs of producing the self-employment income, and divide the remaining amount of self-employment income by the number of months over which the income will be averaged. This amount is the monthly net self-employment income. The monthly net self-employment income shall be added to any other earned income received by the household to determine total monthly earned income. The total monthly earned income, less a 20 percent earned income deduction, shall then be added to all monthly unearned income received by the household.

1. If the cost of producing self-employment income exceeds the income derived from self-employment, as a farmer who receives or anticipates receiving annual gross proceeds of \$1,000 or more from the farming enterprise, such losses shall be prorated and then offset against countable income to the household as follows:

- i. Offset farm self-employment losses first against other self-employment income;
- ii. Offset any remaining farm self-employment losses against the total amount of earned and unearned income after the earned income deduction has been applied.

2. If a CWA determines that a household is eligible based on its monthly net income, the agency may elect to offer the household an option to determine the benefit level by using either the same net income which was used to determine eligibility, or by unevenly prorating the household's total net income over the period for which the household's self-employment income was averaged to more closely approximate the time when the income is actually received. If income is prorated, the net income assigned in any month cannot exceed the maximum monthly income eligibility standards for the household's size.

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

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

Added new (b) and recodified old (b) to (c).

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. 10:87-7.3, Annualizing self-employment income, repealed.

10:87-7.4 Capital gains

(a) The proceeds from the sale of capital goods or equipment shall be calculated in the same manner as a capital gain for Federal income tax purposes. (Even if only 50

percent of the proceeds from the sale of capital goods or equipment is taxed for Federal income tax purposes, the CWA shall count the full amount of the capital gain as income for food stamp purposes.)

(b) For households whose self-employment income is calculated on an anticipated (rather than averaged) basis, the agency shall count the amount of capital gains the household anticipates receiving during the months over which the income is being averaged.

Recodified from N.J.A.C. 10:87-7.7 and amended by R.2004 d.181, effective May 17, 2004.

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

Designated former paragraph as (a); added (b). Former N.J.A.C. 10:87-7.4, Self-employment part of annual support, repealed.

10:87-7.5 Allowable costs of producing self-employment income

(a) Allowable costs of producing self-employment income include, but are not limited to, the identifiable costs of labor, stock, raw material, seed, fertilizer, payments on the principal of the purchase price of income-producing real estate and capital assets, equipment, machinery, and other durable goods, interest paid on the purchase of income-producing property, insurance premiums and taxes paid on income-producing property.

(b) The following items shall not be allowable as a cost of doing business.

1. Net losses from previous periods;
2. Federal, State and local income taxes;
3. Money set aside for retirement purposes and other work related personal expenses (such as transportation to and from work);
4. Depreciation of equipment, machinery or other capital investments; and
5. Any amount that exceeds the payment a household receives from a boarder for lodging and meals.

(c) When calculating the costs of producing self-employment income, CWAs may elect to use actual costs for allowable expenses as follows:

1. For income from day care, use the current reimbursement amounts used in the Child and Adult Care Food Program or a standard amount based on estimated per-meal costs.

i. For food stamp recipients who derive income from the provision of day care, CWAs shall deduct from the day care income earned by the recipient, as a cost of doing business, any actual documented costs of providing meals.

2. For income from boarders, other than those in commercial boarding houses or from foster care boarders, use:

- i. The maximum food stamp allotment for a household size that is equal to the number of boarders; or
 - ii. A flat amount or fixed percentage of the gross income, provided that the method used to determine the flat amount or fixed percentage is objective and justifiable and is stated at N.J.A.C. 10:87.
3. For income from foster care boarders, use the standard amount that is used for TANF purposes.

As amended, R.1984 d.17, effective February 6, 1984.

See: 15 N.J.R. 1821(a), 16 N.J.R. 246(a).

Added depreciation as cost of producing income.

Recodified from N.J.A.C. 10:87-7.8 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 N.J.A.C. 10:87-7.5, New self-employment enterprise, repealed.

Case Notes

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

10:87-7.6 Assigning certification periods

Households that receive their annual support from self-employment and have no other source of income shall be certified in accordance with N.J.A.C. 10:87-6.26(f).

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

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

Recodified (a)1.-2. as (b)-(c).

Recodified from N.J.A.C. 10:87-7.9 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 former (a), deleted the designation and rewrote the paragraph; deleted (b) and (c). Former N.J.A.C. 10:87-7.6, Determining monthly income from self-employment, repealed.

10:87-7.7 Treatment of income and resources of non-household members

(a) During the period of time that a household member cannot participate because he or she is an ineligible alien, disqualified due to intentional program violation, refused to obtain and provide a social security number, refused to comply with a work registration requirement, or is ineligible for failing to sign the declaration attesting to his or her citizenship or alien status, the eligibility and benefit level of the remaining household member(s) shall be determined in accordance with this section.

(b) The eligibility and benefit level of any remaining household members of a household containing individuals determined ineligible because of disqualification for intentional program violation, voluntary quit or reduction of work, duplicate participation in the Program, trafficking, being a fleeing felon or parole violator, convicted of possession, use, or distribution of a controlled substance, or refusal to comply with a work registration requirement shall be determined as follows:

1. The resources of the ineligible household member(s) shall continue to be counted in their entirety to the remaining household members.

2. The income of the ineligible household member(s) shall continue to be counted in its entirety and the entire household's allowable 20 percent earned income, standard, medical, dependent care, child support payments, and excess shelter deductions shall continue to apply to the remaining household members.

3. The ineligible member(s) shall not be included when determining the household's size for the purpose of:

i. Comparing the household's resources with the resource eligibility limits;

ii. Comparing the household's monthly income with the income eligibility standards; or

iii. Assigning a benefit level to the household. The CWA shall ensure that no household's coupon allotment is increased solely as a result of the exclusion of one or more household members.

(c) The eligibility and benefit level of any remaining household members of a household containing individuals determined ineligible for being an ineligible alien, for failing to sign the declaration attesting to his or her citizenship or alien status, for not meeting the able-bodied adults without dependents (ABAWDS) work activity requirement (N.J.A.C. 10:87-10.20), or because of disqualification for refusal to obtain or provide a Social Security number shall be determined as follows:

1. The resources of such ineligible member(s) shall continue to count in their entirety to the remaining household members.

2. A pro rata share of the income of such ineligible member(s) shall be counted as income to the remaining member(s). This pro rata share is calculated by first subtracting the allowable exclusions (see N.J.A.C. 10:87-5.9) from the ineligible members' income and then dividing the income evenly among the household members, including the ineligible member(s). All but the ineligible members' share is counted as income to the remaining household members.

3. The 20 percent earned income deduction shall apply to the prorated income earned by such ineligible members which is attributed to their households. That portion of the household's allowable shelter, child support payments, and dependent care expenses which are either paid by or billed to the ineligible member(s) shall be divided evenly among the household members, including the ineligible member(s). All but the ineligible members' share is counted as a deductible child support payment, shelter and/or dependent care expense for the remaining household members.

4. The ineligible member(s) shall not be included when determining the household's size for purposes of:

- i. Comparing the household's resources with the resource eligibility limits;
- ii. Comparing the household's monthly income with the income eligibility standard; or
- iii. Assigning a benefit level to the household.

(d) Whenever an individual is determined to be ineligible within the household's certification period, the CWA shall determine the eligibility or ineligibility of the remaining household members based, insofar as possible, on information in the case record and shall take the following action:

1. If a household's benefits are reduced or terminated within the certification period because one of its members was excluded because of disqualification for intentional program violation, the CWA shall notify the remaining members of their eligibility and benefit level at the same time the excluded member is notified of his or her disqualification. The household is not entitled to a notice of adverse action but may request a fair hearing to contest the reduction or termination of benefits, unless the issue of the amount of the claim was addressed at the time of the administrative disqualification hearing.

2. If a household's benefits are reduced or terminated within the certification period for reasons other than an Intentional Program Violation disqualification, the CWA shall issue a notice of adverse action in accordance with N.J.A.C. 10:87-9.5(c)1i which informs the household of the ineligibility, the reason for the ineligibility, the eligibility and benefit level of the remaining members, and the action the household shall take to end the ineligibility.

(e) For those non-household members who are ineligible for reasons other than those set forth at N.J.A.C. 10:87-2.3(c), such as ineligible students (see N.J.A.C. 10:87-2.3(a)2), the income and resources of the non-household member shall not be considered available to the household with whom the individual resides.

1. Cash payments from the nonhousehold member to the household will be considered income under the normal income procedures at N.J.A.C. 10:87-5.5.

2. Vendor payments, as defined at N.J.A.C. 10:87-5.9(a)2, shall be excluded as income.

3. If the household shares deductible expenses with the nonhousehold member, only the amount actually paid or contributed by the household shall be deducted as household expenses. If payments or contributions cannot be differentiated, the expenses shall be prorated evenly among persons actually paying or contributing to the expense and only the household's pro rata share deducted.

4. When the earned income of one or more household members and the earned income of a nonhousehold member are combined into one wage, the income of the household members shall be determined as follows:

- i. If the household's share can be identified, the CWA shall count that portion due to the household as earned income.

- ii. If the household's share cannot be identified, the CWA shall prorate the earned income among all those whom it was intended to cover and count that prorated portion to the household.

(f) Nonhousehold members shall not be included when determining household size for the following purposes:

1. Assigning a benefit level;

2. Comparing the household's monthly income with the income eligibility standards; or

3. Comparing household resources with the resource eligibility limits.

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

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

(a): "or failure . . . N.J.A.C. 10:87-3.20(d)" deleted.

(a)5i deleted.

(a)5ii renumbered as (a)5i.

Amended by R.1983 d.223, effective May 31, 1983. See: 15 N.J.R. 629(a), 15 N.J.R. 1033(a).

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

Full descriptions of treatment of income and resources of "excluded" as opposed to "disqualified" household members.

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

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

Substantially amended.

Amended by R.1990 d.565, effective November 19, 1990.

See: 22 N.J.R. 2219(a), 22 N.J.R. 3486(a).

Specified how to treat the income and resources of individuals who fail to attest to their citizenship or alien status when determining the eligibility and benefit level of remaining household members, in accordance with the Federal regulations at 7 CFR 273.11; established the dependent care deduction as a separate deduction from the shelter deduction.

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

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

In (a) and (b): added phrase, "... refused/refusal to comply with work registration requirement . . ."

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), rewrote the introductory paragraph, and inserted a reference to child support payments in 2; and in (c), inserted "for not meeting the able-bodied adults without dependents (ABAWDS) work activity requirement (N.J.A.C. 10:87-10.25)," following "status," in the introductory paragraph, and inserted a reference to child support payments in the second sentence of 3.

As amended, R.1983 d.223, effective May 31, 1983.

See: 15 N.J.R. 629(a), 15 N.J.R. 1033(a).

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

Language added about combined incomes of household and non-household members.

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

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

Added (b).

Recodified from N.J.A.C. 10:87-7.14 and 10:87-7.15 and amended by R.2004 d.181, effective May 17, 2004.

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

Rewrote the section. Former N.J.A.C. 10:87-7.7, Capital gains, recodified to N.J.A.C. 10:87-7.4.

10:87-7.8 Residents of substance abuse treatment and rehabilitation programs

(a) Substance abusers, who regularly participate in publicly operated or private nonprofit substance abuse treatment and rehabilitation programs on a resident basis, may voluntarily apply for the Food Stamp Program.

1. Applications shall be made through an authorized representative who is employed by the substance abuse center (SAC) and designated by the center for that purpose (see also N.J.A.C. 10:87-2.7(e)). The CWA may require the household to designate the SAC as its authorized representative for the purpose of accessing the allotment on behalf of the household.

2. SAC residents shall have their eligibility determined as a one-person household unless their children are living with them, in which case their children shall be included in the household with the parent.

3. As an FNS authorized retailer, SACs shall redeem food stamp benefits by using individual household Families First cards to access a point of sale (POS) device at the center.

(b) CWA responsibilities are as follows:

1. Prior to certifying any residents for food stamp benefits, the CWA shall verify that the SAC is authorized by FNS as a retailer in accordance with N.J.A.C. 10:87-2.7(d)2 or that it comes under part B of Title XIX of the Public Health Service Act, 42 U.S.C. §§ 300x et seq.

2. The CWA shall certify residents of SACs using the same provisions that apply to all other households, including, but not limited to, notices of adverse action, fair hearings, and entitlement to lost benefits.

3. When expedited processing standards as described at N.J.A.C. 10:87-2.26 through 2.30 are necessary, eligibility for initial application shall be processed on an expedited basis and the CWA shall complete verification and documentation requirements prior to issuance of a second allotment.

4. When normal processing standards apply, the CWA shall complete the verification and documentation requirements prior to making an eligibility determination for the initial application.

5. The CWA shall process changes in household circumstances and recertifications by using the same standards that apply to all other households.

6. At least once every three months, the CWA shall conduct a random on-site visit to the center to ensure the accuracy of the participating resident list provided by the SAC and to also ensure that the CWA's records are consistent and up-to-date.

7. The CWA shall promptly notify DFD when it has reason to believe that a SAC is misusing benefits in its possession. However, the CWA shall take no action prior to FNS action against the SAC.

8. The CWA shall establish a claim for overissuances of food stamp benefits held on behalf of resident clients as stipulated at N.J.A.C. 10:87-7.11(h) if any overissuances are discovered during an investigation or hearing procedure for redemption violations. If FNS disqualifies a SAC as an authorized retail food store, the CWA shall suspend its authorized representative status for the same period.

(c) SAC responsibilities are as follows:

1. As an authorized representative, the SAC shall be knowledgeable about household circumstances and shall carefully review those circumstances with residents prior to applying on their behalf.

2. The SAC shall notify the CWA of changes in the household's circumstances as provided at N.J.A.C. 10:87-9.5.

3. On a monthly basis, the SAC shall provide to the CWA a list of currently participating residents that includes a statement signed by a responsible center official attesting to the validity of the list.

4. After the household leaves the SAC, the SAC can no longer act as the household's authorized representative for certification purposes or for obtaining or accessing benefits.

5. The SAC shall be responsible for any misrepresentation or Intentional Program Violation that it knowingly commits in the certification of SAC residents.

6. The SAC shall be strictly liable for all losses or misuse of food stamp benefits held on behalf of resident households and for all overissuances that occur while the households are residents of the SAC.

7. The SAC authorized by FNS as a retail food store shall be penalized or disqualified if it is determined administratively or judicially that benefits were misappropriated or used for purchases that did not contribute to a certified household's meals.

(d) CWA and SAC responsibilities upon a resident's leaving are as follows:

1. When a household leaves the SAC, the SAC shall immediately notify the CWA and inform the household to contact the CWA as soon as possible. Upon notification from the SAC, the CWA shall immediately inactivate the household's Families First card.

i. Prior to informing the CWA of a recipient's departure, the SAC shall ensure that it has debited/credited the recipient's Families First account with the appropriate amount of the monthly benefit.

(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 alier 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 Department 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 coupons 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.

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 coupon redemption authorization. The Food and Nutrition Service reserves the right to limit participation of homeless meal providers when evidence obtained indicates that participation of the provider indicates possible damage to the integrity of the Food Stamp Program.

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

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 non-household 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).
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 "Day care providers".

SUBCHAPTER 8. FAIR HEARINGS

10:87-8.1 General provisions

(a) The conduct of fair hearings shall be governed by the Uniform Administrative Procedure Rules contained in N.J.A.C. 1:1 and Public Welfare Hearings contained in N.J.A.C. 1:10. If any rule in this subchapter is inconsistent with those rules, N.J.A.C. 1:1 and 1:10 shall take precedence.

(b) Any household which is dissatisfied with any CWA action or inaction, affecting the household's participation in the Program shall be advised of its fair hearing rights and be given an opportunity to receive a fair hearing. The household shall also be advised of available legal services.

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

10:87-8.2 CWA responsibility to provide fair hearing information

The CWA shall make Form FSP-196, "Fair Hearings in the Food Stamp Program", available to any interested party upon request.

Amended by R.1985 d.180, effective April 15, 1985 (operative May 1, 1985).
See: 17 N.J.R. 167(a), 17 N.J.R. 969(a).
Old text deleted and new text substituted.

10:87-8.2A Fair hearing based on Federal changes

Fair hearings will be denied those households which are merely disputing the fact that a federally mandated reduction, suspension, or cancellation was ordered. However, if the request for a fair hearing is based on a household's belief that its benefit level was computed incorrectly or that regulations were misapplied or misinterpreted, the household shall be given an opportunity to receive a fair hearing (see N.J.A.C. 10:87-8.9(b)). Since the reduction, suspension or cancellation would be necessary to avoid an expenditure of funds beyond those appropriated by Congress, households do not have a right to a continuation of benefits pending the fair hearing. The household may receive retroactive benefits in an appropriate amount if it is determined that its benefits were reduced by more than the amount by which the CWA was directed to reduce benefits. CWAs will only refer those requests which qualify for a fair hearing to the Bureau of Administrative Review and Appeals (BARA).

R.1984 d.64, effective February 26, 1981.
See: 13 N.J.R. 226(b).
Amended by R.1989 d.121, effective February 21, 1989.
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).
Substantially amended.
Amended by R.2004 d.181, effective May 17, 2004.
See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

10:87-8.3 Request for fair hearing

Any clear expression, oral or written, by the household or its representative to the effect that it wishes to appeal an

action of the CWA or which indicates a desire to present the case to a higher authority shall be construed as a request for a fair hearing.

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

Substituted "an action of the CWA" for "a decision" following "wishes to appeal".

10:87-8.4 Right to request a fair hearing

(a) The right to request a fair hearing shall not be limited or interfered with in any way.

1. Informal efforts to resolve a dispute may be made through field contacts, office interviews with supervisory personnel, consultation with the State DFD Field Representative, etc. In no event, however, shall such informal efforts be considered prerequisite to a fair hearing, nor shall they delay, replace, interfere with or otherwise impede the processing of a fair hearing which has been requested by the household.

2. The CWA shall offer agency conference to households which wish to contest a denial of expedited service under the procedures at N.J.A.C. 10:87-2.28 through 2.31. The CWA shall advise households that use of an agency conference is optional and that it shall in no way delay or replace the fair hearing process.

i. The agency conference may be attended by the eligibility worker responsible for the agency action, and shall be attended by an eligibility supervisor (other than the supervisor of the eligibility worker responsible for the action) and/or the agency director, and by the household and/or its representative.

ii. An agency conference for households contesting a denial of expedited service shall be scheduled within two working days of the date the household contests the action of the CWA, unless the household requests that it be scheduled later or states that it does not wish to have an agency conference.

iii. An agency conference may lead to an informal resolution of the dispute. However, a fair hearing must still be held unless the household makes a written withdrawal of its request for a hearing.

(b) CWAs shall conduct pre-hearing settlement conferences concerning Food Stamp Program appeals, except for IPV issues, in accordance with the following procedures:

1. The CWA shall contact the appellant to schedule a Pre-Hearing Settlement Conference (PHSC) within five working days as soon as the CWA receives and forwards the fair hearing request to the Division of Family Development (DFD). If the Fair Hearing request is made directly to DFD, the CWA will initiate the procedure upon notification of the request by DFD but not later than one day from receipt of the request.

2. The CWA Fair Hearing Liaison shall preside over the pre-hearing settlement conference and act as a mediator between the appellant and other appropriate CWA staff.

3. The CWA shall report the disposition of each food stamp hearing request to the Division of Family Development, Bureau of Administrative Review and Appeals (BARA), with an information copy to the Office of Administrative Law within three working days. The report shall contain at a minimum, but not be limited to, the following information:

- i. The contested issues;
- ii. The scheduled time, date and location of a pre-hearing settlement conference;
- iii. The verbal or written acceptance or declination by the appellant to attend a pre-hearing settlement conference;
- iv. Whether or not a settlement was reached; and
- v. Terms of the settlement or basis for the appellant's decision to withdraw. The report must be co-signed by the appellant and the mediator or other CWA official.

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

Added (b).

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 "resolve a dispute" for "effect an adjustment" in 1 and amended the N.J.A.C. references in the introductory paragraph of 2; in (b), substituted references to the Division of Family Development (DFD) for references to the Division of Economic Assistance (DEA) in 1 and 3; deleted the introductory phrases throughout.

10:87-8.5 Time period for request of a hearing

A household may request a hearing on any action by the CWA or loss of benefits which occurred in the prior 90 days. Action by the CWA shall include a denial of a request for restoration of any benefits lost more than 90 days but less than a year prior to the request. In addition, at any time within a certification period, a household may request a fair hearing to dispute its current level of benefits. If a hearing request is not made within the period provided by the notice of adverse action, benefits shall be reduced or terminated as provided in the notice. However, if the household establishes that its failure to make the request within the advance notice period was for good cause, the CWA shall reinstate the benefits to the prior basis. When benefits are reduced or terminated due to a mass change, participation on the prior basis shall be reinstated only if the issue being contested is that food stamp eligibility or benefits were improperly computed or that Federal law or regulation is being misapplied or misinterpreted by the CWA.

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.

10:87-8.6 Processing fair hearing requests

(a) To assure orderly and expeditious processing of complaints and fair hearing requests, the CWA and Division of Family Development (DFD) shall proceed in the following manner:

1. The CWA shall designate a staff member to act as a fair hearing liaison between itself and the DFD. Upon receipt of a request for a fair hearing, and no later than one working day following receipt of the request, the liaison shall notify the DFD of the request, the issues to be resolved, and such other information as may be necessary to process the case.

2. The CWA liaison's duties shall include, but not be limited to, the following:

- i. The liaison shall establish a system to insure that every written request for a hearing which is received by the CWA is stamped with the date of receipt and forwarded to the Division of Family Development within one working day of the date of the request.

- ii. The liaison shall review incoming requests for possible corrective action prior to a hearing.

- iii. The liaison shall identify, and arrange for participation of CWA staff who may be essential to the hearing. The liaison shall also assemble all records relevant to the hearing and arrange for an interpreter if the household does not speak English.

- iv. The liaison shall contact the household or its representative, not less than two working days prior to a hearing, to confirm attendance and to arrange for the transportation of the household if necessary.

- v. Prior to the hearing date, the liaison shall submit special reports regarding hearing requests, if so instructed by the DFD.

- vi. The liaison shall submit reports, regarding the implementation of State fair hearing decisions, in accordance with the provisions of this subchapter.

- vii. The liaison shall serve as the single individual in the CWA to be contacted regarding matters relating to hearings.

3. The CWA shall provide the following services to the household:

- i. An oral request for a fair hearing shall be reduced to a written record by the staff person to whom the request is made. No special form or manner of expression is required, provided that the request identifies the nature and date of the complaint. If it is unclear from the household's request what action it wishes to appeal, the CWA may request that the household clarify its grievance.

ii. Upon the household's request, the CWA shall assist in the preparation of the household's fair hearing request.

iii. The household shall be informed of, and referred to, legal services in the community for the purpose of obtaining legal counsel at the hearing.

iv. Upon request, the CWA shall make available without charge the specific materials necessary for a household or its representative to determine whether a hearing should be requested or to prepare for a hearing which includes, but is not limited to, access to the case record.

v. If the individual making the request speaks a language other than English or has a limited English proficiency or disability and the CWA is required by N.J.A.C. 10:87-9 to provide bilingual staff or interpreters who speak the appropriate language, the CWA shall insure that the hearing procedures are verbally explained in that language.

vi. The CWA shall provide the household transportation to and from the hearing, if requested.

4. To the maximum extent possible, a hearing shall be scheduled no later than seven working days after receipt of notification by the CWA of the household's request and held no later than 21 days after the date of the household's request.

i. The household may request and is entitled to receive a postponement of the scheduled hearing. The postponement shall not exceed 30 days and the time limit for action on the decision may be extended for as many days as the hearing is postponed. For example, if a hearing is postponed by the household for 10 days, notification of the hearing decision will be required within 70 days from the date of the request for a hearing.

5. Hearings will be scheduled by the Office of Administrative Law (OAL). State level fair hearings will be conducted by an administrative law judge assigned by the Director of the Office of Administrative Law.

6. The Division of Family Development (DFD) and OAL will share responsibilities as follows:

i. The DFD shall register each request for a fair hearing on the date which the request is received and forward all requests to OAL within one work day of date received. OAL shall refer all requests made direct to OAL to DFD for registering.

ii. When received by the DFD, requests shall be transmitted by datafax or telephone to the CWA.

iii. Together with notice of the hearing date, the household will be promptly notified by OAL whether or not the household is to continue to receive benefits at an unreduced level pending the outcome of the fair

hearing. A copy of this communication will be sent to the DFD and to the CWA.

7. A request for a fair hearing shall not be denied or dismissed except under the following circumstances:

i. The request for a hearing is not received within the time interval specified at N.J.A.C. 10:87-8.5.

ii. The household withdraws the fair hearing request for any reason. When a household that previously requested a food stamp fair hearing contacts the CWA (either orally, electronically or in writing) in order to withdraw its hearing request, the CWA shall send a Cancellation of Your Food Stamp Fair Hearing Request form (FSP-944), along with a self-addressed stamped envelope, to the household which confirms that the household has requested cancellation of its hearing. The form shall also advise the household and/or household representative that it is entitled to request reinstatement of its hearing request within 90 days of the date that the household's food stamp case was to be affected by the proposed case action. A copy of the confirmation letter to the household shall be retained in the household's case record and another copy shall be forwarded to the State Bureau of Administrative Review and Appeals. If the confirmation portion of the Confirmation of Verbal Withdrawal Request form (FSP-944) is not returned to the agency, then the hearing shall continue.

iii. The household abandons its request for a fair hearing.

(1) A request for a hearing shall be considered abandoned if neither the household nor its representative appears at the time and place established for the hearing, unless the DFD or CWA received notice not later than the scheduled date of hearing that the household would be unable to attend for reasonable good cause; in such case, the hearing shall be adjourned and rescheduled. (Good cause is defined at N.J.A.C. 10:87-11.18.) No hearing shall be delayed for a period of more than 30 calendar days under any circumstances except as provided at (a)7iii(2) below.

(2) If the household or its representative, fails to appear for a scheduled hearing without having given proper notice, a notice of assumption of abandonment shall be sent to the household. If there is no answer within 10 calendar days, the hearing shall be deemed abandoned. The household shall have the right to present in writing or electronically to the DFD directly or through the CWA, such facts or reasons for the failure to appear. The DFD may determine whether or not the facts so presented by the household or its representative, constitute reasonable good cause, as defined at N.J.A.C. 10:87-10.18 to warrant reinstatement of the hearing.

8. Scheduling of hearing requests from households, such as migrant farm workers, which plan to move from

the county before the hearing decision would normally be reached shall be expedited.

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

Substituted "calendar" for "working" and "expedited" for "expected".

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)7, rewrote ii.

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.

10:87-8.7 Participation during appeal

(a) If a household requests a fair hearing within 15 days of the mailing of an adverse action notice and the certification period has not expired, participation shall be continued consistent with the benefit level authorized immediately prior to the notice of adverse action unless the household specifically waives continuation of benefits. If the request for a fair hearing does not positively indicate that the household has waived continuation of benefits, the CWA shall assume that continuation of benefits is desired and benefits shall be issued accordingly. If the CWA action is upheld by the hearing decision, a claim against the household shall be established for all overissuances (see N.J.A.C. 10:87-11.20).

1. In the case of an EBT adjustment, as defined at N.J.A.C. 10:88-3.9, once an adverse action is upheld, the CWA shall immediately debit the household's account for the total amount stated in its original notice. If there are no benefits or insufficient funds remaining in the household's account at the time the CWA action is upheld, the CWA shall only make the adjustment from the next month's benefits, regardless of whether this satisfies the full adjustment amount.

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

Codified section as (a), added a N.J.A.C. reference and added 1.

10:87-8.8 Delayed request

If a hearing request is not made within the period provided by the notice of adverse action, benefits shall be reduced or terminated as stated in the notice. However, if the household establishes that its failure to make the request within the adverse notice period was for good cause, the CWA shall reinstate the benefits to the prior benefit level.

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

At the end of the second sentence, substituted "benefit level" for "basis".

10:87-8.9 Reduction or termination due to mass change

(a) When benefits are reduced or terminated due to a mass change, participation at the prior benefit level shall be reinstated only if the issue being contested is that food stamp eligibility or benefits were improperly computed or Federal law or regulation is being misapplied or misinterpreted by the DFD or the CWA.

(b) When benefits are reduced, suspended, or cancelled due to a Federal order, participation at the prior benefit level, pending the fair hearing, shall be denied.

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

(b) added.

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) and (b), substituted "at the prior benefit level" for "on the prior basis".

10:87-8.10 Reduction or termination of benefits prior to a hearing decision

(a) Once continued or reinstated, benefits shall not be reduced or terminated prior to a final hearing decision, except as provided below:

1. The certification period expires. The household may reapply and may be determined eligible for a new certification period with a benefit amount as determined by the CWA;

2. The hearing official makes a determination that the sole issue is one of Federal law or regulation and that the household's claim that the CWA improperly computed the benefits or misinterpreted or misapplied such law or regulation policy is invalid;

3. A change affecting the household's eligibility or basis of issuance occurs while the hearing decision is pending and the household fails to request a hearing after the subsequent notice of adverse action; or

4. A mass change affecting the household's eligibility or basis of issuance occurs while the hearing is pending.

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.

10:87-8.11 Prompt notice

The State Agency will promptly inform the household in writing if benefits are reduced or terminated pending the hearing decision.

10:87-8.12 Hearing procedures

The hearing shall be conducted pursuant to the Special Hearing Rules for Division of Family Development cases, N.J.A.C. 1:10, and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

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

10:87-8.13 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 coupon 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.

10:87-8.22 (Reserved)

Recodified to N.J.A.C. 8:27-8.18 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 re-scheduling 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 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.

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 individ-

ual 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 household except as noted above. Neither shall the CWA treat the submission of the report of change as a waiver of the household's right to a notice of an adverse action.

1. 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.

(2) Verification required by N.J.A.C. 10:87-2.19 through 2.22, must be obtained prior to the issuance of the second normal monthly allotment after the change is reported. If the household does not provide verification, the household's benefits will revert to the original benefit level. In cases where the CWA has determined that a household has refused to cooperate, as defined at N.J.A.C. 10:87-2.14 through 2.17, the CWA shall terminate the household's eligibility. If the CWA increases a household's benefits to reflect a reported change but subsequent verification indicates that the household was entitled to fewer benefits, the CWA shall establish a claim in accordance with N.J.A.C. 10:87-11.20.

iii. If the household's benefit level decreases or the household becomes ineligible as a result of the change, the CWA shall issue a notice of adverse action within 10 days of the date the change was reported, unless one of the exemptions to the notice of adverse action in (g) and (h) below applies. The decrease in the benefit level shall be made effective no later than the allotment for the month following the month in which the notice of adverse action period has expired, provided a fair hearing and continuation of benefits have not been requested. The CWA shall postpone obtaining verification required by N.J.A.C. 10:87-2.19 through 2.22 until the case is next recertified.

4. Certain changes are initiated by the State or Federal government which may affect the entire caseload or significant portions of the caseload. These changes include annual adjustments to the net income eligibility standards and the shelter/dependent care deduction; adjustments to the maximum benefit allotment and standard deduction; seasonal adjustments to the utility standard; periodic cost-of-living adjustments to Social Security, SSI and other Federal benefits; federally mandated reductions, suspensions, or cancellations of food stamp benefits; periodic adjustments to WFNJ/TANF and other changes in the eligibility criteria based on legislative or regulatory actions.

(d) These include Federal adjustments to eligibility standards, allotments and deductions; federally mandated reductions, suspensions, or cancellations of food stamp benefits, and State adjustments to utility standards. These adjustments shall go into effect for all households at a specific point in time. Adjustments to the maximum benefit allotment, shelter/dependent care deduction and the standard deduction shall be effective for all issuances in October. Annual adjustment to the income eligibility standards shall be effective for all October issuances. Adverse action notices

are not required for such changes. However, prior publicity of adjustments shall be made through news media, by placing posters in certification offices, issuance locations or sites frequented by certified households, or by issuing general notices mailed to households.

(e) When the State makes an overall adjustment to WFNJ/TANF payments, corresponding adjustments in the household's food stamp benefits shall be handled as a mass change. When the CWA has at least 30 days advance knowledge of the amount of the WFNJ/TANF adjustment, the CWA shall recompute food stamp benefits to be effective in the same month as the WFNJ/TANF change. If the CWA does not have sufficient notice, the food stamp change shall be effective not later than the month following the month in which the WFNJ/TANF change was made.

1. A notice of adverse action is not required when a household's food stamp benefits are reduced or terminated as a result of a mass change in the PA grant. However, the CWA shall send individual notices to households to inform them of the change. If a household requests a fair hearing, benefits shall be continued at the former level only if the issue being appealed is that food stamp eligibility or benefits were improperly computed.

(f) DFD shall administer mass changes to reflect COLAs in benefits and any other mass changes under RSDI, SSI, and other programs where COLA information is readily available and applicable to a majority of those program's beneficiaries. Households are not responsible for reporting these changes.

(g) Households shall be notified whenever their benefits are altered as a result of changes in the WFNJ/TANF benefits. If the WFNJ/TANF benefits are terminated but the household is still eligible for food stamp benefits, members of the household shall be advised of food stamp work registration requirements, if applicable, as their work requirement under Title IV of the Social Security Act exemption no longer applies.

(h) Whenever a change results in the reduction or termination of a household's WFNJ/TANF benefits within its food stamp certification period, and the CWA has sufficient information to determine how the change affects the household's food stamp eligibility and benefit level, the CWA shall:

1. Issue a single notice of adverse action for both the WFNJ/TANF and food stamp actions. If the household requests a fair hearing within the period provided by the notice of adverse action, the household's food stamp benefits shall be continued on the basis authorized immediately prior to sending the notice. If the fair hearing is requested for both programs' benefits, the hearing shall be conducted according to WFNJ/TANF procedures and timeliness standards. However, the household must reapply for food stamp benefits if the food stamp certification period expires before the fair hearing process is complet-

ed. If the household does not appeal, the change shall be made effective in accordance with the procedures specified in (c) above.

2. If the household's food stamp benefits will be increased as a result of the reduction or termination of WFNJ/TANF benefits, the CWA shall issue the PA notice of adverse action, but shall not take any action to increase the household's food stamp benefits until the household decides whether it will appeal the adverse action. If the household decides to appeal and its WFNJ/TANF benefits are continued, the household's food stamp benefits shall continue on the previous basis. If the household does not appeal, the CWA shall make the change effective in accordance with the procedures specified in (c) above, except that the time limits for the CWA to act on changes which increase a household's benefits shall be calculated from the date the PA notice of adverse action period expires.

(i) Whenever a change results in the termination of a household's WFNJ/TANF benefits within its food stamp certification period, and the CWA does not have sufficient information to determine how the change affects the household's food stamp eligibility and benefit level (such as when an absent parent returns to a household, rendering the household categorically ineligible for public assistance, and the CWA does not have any information on the income of the new household member), the CWA shall not terminate the household's food stamp benefits but take the following action:

1. Where a PA notice of adverse action has been sent, the CWA shall wait until the household's notice of adverse action period expires or until the household requests a fair hearing, whichever occurs first. If the household requests a fair hearing and its WFNJ/TANF benefits are continued pending the appeal, the household's food stamp benefits shall be continued on the same basis.

2. If a PA notice of adverse action is not required, or the household decides not to request a fair hearing and continuation of its WFNJ/TANF benefits, the CWA shall send the household an RFC in accordance with (c)1 above.

(j) Prior to any action to reduce or terminate a household's benefits within the certification period, the CWA shall provide the household timely and adequate advance notice before the adverse action is taken.

1. The notice of adverse action will be considered timely provided it is mailed at least 10 days prior to the date upon which the action becomes effective.

(k) Individual notices of adverse action are not required when:

1. The State initiates a mass change as described in (d) and (e) above.

2. The CWA determines, based on reliable information, that all members of a household have died.

3. The CWA determines, based on reliable information, that the household had moved from the county.

4. The household has been receiving an increased allotment to restore lost benefits, the restoration is complete, and the household was previously notified in writing of the date increased allotment would terminate.

5. The household's allotment varies from month to month within the certification period to take into account changes which were anticipated at the time of certification, and the household was so notified at the time of certification.

6. A household member is disqualified for intentional program violation in accordance with N.J.A.C. 10:87-11 or the benefits of the remaining household members are reduced or terminated to reflect the disqualification of that household member, 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. The notice requirements for individuals or households affected by intentional program violation disqualifications are explained at N.J.A.C. 10:87-7.7(d)1 and 10:87-11.

7. The household jointly applied for WFNJ/TANF and food stamp benefits and has been receiving food stamp benefits pending the approval of the WFNJ/TANF grant and was notified at the time of certification that food stamp benefits would be reduced upon approval of the WFNJ/TANF grant.

8. The household has received an increased allotment pending verification of a reported change. If the household does not provide verification prior to the next issuance of its food stamp allotment, the household's allotment will revert to the original allotment.

9. Residents of a treatment center or group living arrangement which lost its certification from the appropriate State agency.

10. The household's food stamp allotment is reduced to repay a claim as a result of failure to make agreed upon installment payments in cash and/or food stamp benefits (see N.J.A.C. 10:87-11.20(h)5i through iv).

11. The household voluntarily requests in writing, or in the presence of a caseworker that its participation in the Food Stamp program be terminated. The CWA shall respond to all non-written requests by sending the household a letter confirming the voluntary withdrawal. Households provided written confirmation of voluntary withdrawal from the Food Stamp program may request a fair hearing.

12. The CWA determines, based on reliable information that the household is departing from the county of current residence prior to the next issuance and therefore will not be able to obtain and negotiate its next allotment. While the CWA may inform the household before its next issuance date, they shall not delay terminating the household's participation in order to provide advance notice.

13. The CWA initiates recoupment of a claim against a household which has previously received a notice of adverse action with respect to such claim.

(l) When the household's address is unknown, and mail directed to that address has been returned by the post office indicating no known forwarding address, the CWA shall 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)1i 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.

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.

10:87-9.13 Security and control of Families First cards

(a) The CWA shall maintain a supply of blank Families First card stock, in quantity sufficient to meet the demands of initial issuance and replacement.

(b) Regarding the Master control of Families First card stock, when a shipment of blank Families First cards is received by the CWA, the date of receipt and the Primary Account Number (PAN) of the first and the last card in the shipment shall be checked and recorded in accordance with Families First program card procedures. In addition, each distribution of a block of Families First cards to authorized CWA personnel shall be checked and recorded in the same manner.

(c) All shipments of Families First cards shall be maintained in a secure area which must be locked appropriately. Such area shall be separate from the area in which card forms/logs or records are kept.

(d) Each employee responsible for a block of Families First cards shall maintain a separate log of the cards assigned to him or her.

1. Each subsequent receipt of a block of Families First cards shall be recorded on a separate form.
2. Families First cards shall be issued in numerical sequence within each block.
3. All returned Families First cards shall be handled in accordance with existing State security procedures for returned EBT cards.

(e) All supplies of blank Families First cards assigned to CWA personnel shall be maintained in a secure area which can be locked in the absence of the employee. Under no circumstances shall any Families First cards be accessible to unauthorized persons.

(f) Completed control forms shall be retained for a period of three years. Such period shall originate with the most recent date of entry on the appropriate form.

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

This section formerly contained the rules entitled "Households which move while covered by form FNS-286".

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

This section formerly contained the rules entitled "Responsibilities of the new jurisdiction".

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

This section was recodified from 9.20. The original section 9.10 was reserved.

Recodified from N.J.A.C. 10:87-9.10 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 10:87-9.13 was reserved.

10:87-9.14 (Reserved)

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

This section formerly contained the rules entitled "Security and control of FNS-286".

SUBCHAPTER 10. FISCAL OPERATIONAL PROBLEMS**10:87-10.1 Work registration**

(a) The CWA shall register for work each household member not exempted by the provisions at N.J.A.C. 10:87-10.2 regardless of whether or not the geographic area where the member resides is participating in the Food Stamp Employment and Training Program (FSETP). This may be accomplished through the completion of the work registration form or by annotating the case record. In addition, exempt food stamp participants who voluntarily elect to participate in FSETP shall be work registered as a volunteer.

1. FSETP is a work experience, work training or job search program designed to help food stamp recipients move promptly into unsubsidized employment. The New Jersey Department of Labor (DOL) (or agencies subcontracted by DOL) and the CWAs are responsible for administering FSETP.

2. FSETP operates in accordance with the State's FSETP Plan which is approved annually by its FNS Regional Office and is available for public inspection at DFD.

3. FSETP components to which participants will be referred may be limited by the availability of administrative funds.

(b) Upon reaching a determination that an applicant or a household member of the applicant's household is required to register, the CWA shall explain to the applicant the pertinent work requirements, the rights and responsibilities of work registered household members, and the consequences of failure to comply.

1. The CWA shall also provide, either by mail or in person, to each work registrant in the household, a written statement of the pertinent work requirements, rights and responsibilities of work registered household members, and consequences of failure to comply. A notice shall also be provided when a previously exempt member or new household member becomes subject to a work requirement, and at time of recertification.

(c) The CWA shall permit the applicant or the household's authorized representative to complete a work registration form or record for each household member required to register for work.

(d) Household members are considered to have registered when an identifiable work registration form is submitted to the CWA or when an electronic record of the work registration is created.

(e) Registration shall be accomplished through the execution of a work registration form or the completion of an electronic record. The certification worker shall review the registration form or record for completeness and accuracy. If a form has been used, a copy shall be retained in the case

record, and the original forwarded to the appropriate FSETP office in accordance with DFD instructions. If the certification worker is aware that any registrant is exempt from work registration, including migrant or seasonal farm workers away from their usual place of residence, and following the work stream, it shall be reflected on the work registration form or record. The CWA shall forward work registration forms to the DOL office, or have completed electronic work registration records available, not later than five days after the date of certification.

(f) Each nonexempt person shall be required to register at the time of application and at least once every 12 months thereafter. Registration shall be accomplished by the return of a completed work registration form to the CWA which shall retain a copy in the case record and forward the original to the appropriate DOL office, or by electronically updating the record, in accordance with (e) above.

(g) The CWA shall be responsible for notifying the appropriate DOL office via an information report form of those work registrants who become exempt from the work registration requirements subsequent to registration, are no longer certified for participation in the program, or move from the area. Such notification shall be provided to the appropriate DOL office within a reasonable time period but not to exceed 30 days from the date the change becomes known to the CWA.

(h) In the event that DOL disagrees with the CWA determination that the individual is required to register for work, DOL may request a reconsideration of the individual's nonexempt status. The CWA must respond to the reconsideration request within 30 days and DOL must accept the response as final.

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

This section was originally "General provisions"; the new text was recodified from 3.13(a).

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

Section was "State Plan for Food Stamp Employment and Training Programs".

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

This original section was "Miscellaneous fiscal operational instructions" which was repealed. The new section was recodified from 3.17.
Amended by R.1993 d.62, effective February 1, 1993.

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

In (h): deleted deregistration if CWA fails to respond within 30 days.
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); in (c), substituted "work" for "employment in accordance with (a) above" at the end; in (e) through (h), substituted references to DOL for references to FSETP throughout; and in (e), substituted a reference to work registration for a reference to E&T requirements in the second sentence.

Recodified from N.J.A.C. 10:87-10.6 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 10:87-10.1 was reserved.

10:87-10.2 Exemptions from the work registration requirement

(a) Exemptions to the work registration requirement shall be determined when the household applies or reapplies for benefits, when there is a change in the employment status of any member of the household, and/or when the 12 month registration period is initiated or renewed. The applicant shall cooperate fully with regard to the establishment of his or her exemption from the work registration requirement. If an applicant fails to cooperate in the determination of his or her exempt status, the county welfare agency shall complete a work registration.

(b) The following persons shall be exempt from the work registration requirement:

1. Program participants or applicants who are under 16 years of age or aged 60 years or over shall be exempt. If a child has its 16th birthday within a certification period, the child shall fulfill the work registration requirement as part of the next scheduled recertification process, unless the child qualifies for another exemption. A person age 16 or 17 who is not the head of household and who is attending school, or enrolled in an FSETP on at least a half-time basis, is exempt.

2. The following shall be exempt from work registration as essential persons:

i. One parent or other household member who has responsibility for the care of a dependent child under six years of age, or who cares for an incapacitated person, shall be exempt. If the child has its sixth birthday within a certification period, the individual responsible for the care of the child shall fulfill the work requirement as part of the next scheduled redetermination process, unless the individual qualifies for another exemption.

3. Persons enrolled at least half-time (as defined by the institution or program in which they are enrolled) in any school or training program or institution of higher education which is recognized by any Federal, State, or local government agency shall be exempt.

i. Once a student enrolls in an institution of higher education, such enrollment shall be deemed to continue through normal periods of class attendance, vacation and recess unless the student graduates, is suspended or expelled, drops out, or does not intend to register for the next normal school term, excluding summer school.

ii. Persons enrolled in correspondence courses, where physical attendance is not regularly required, shall not be considered students for the purposes of (b)3 above.

4. Adults who are physically or mentally unfit for employment shall be exempt. If a mental or physical disability is claimed and the disability is not evident, verification shall be required.

i. The following shall be considered evidence of incapacity:

(1) Current eligibility for SSI benefits for the blind or disabled, with the exception of "essential persons" (as defined by SSA);

(2) Current receipt of temporary or permanent disability benefits issued by governmental or private sources;

(3) A statement from a physician or licensed or certified psychologist which substantiates the applicant's claim of disability; (the certification worker may obtain such medical verification in writing or by telephone);

ii. The certification worker shall document all facts relevant to, and verification methods utilized, in the determination of incapacity.

5. Persons who are employed or self-employed at least 30 hours per week or receiving weekly earnings equal to the Federal minimum wage multiplied by 30 hours shall be exempt. This shall include migrant and seasonal farm workers who are under contract or similar written agreement with an employer or crew chief to begin employment within 30 days, although this shall not prevent individuals from seeking additional services from FSETP.

i. Persons engaged in hobbies or volunteer work or any other activity which cannot, because of the minimal amount of monies received from such activity, be considered gainful employment, shall not be exempt from work registration, regardless of the amount of time spent in such activity.

6. A substance abuser who regularly participates, as a resident or nonresident, in a substance abuse treatment and rehabilitation program, which has been certified as such by the New Jersey Department of Health, shall be exempt.

i. Prior to certification, the regular participation of a substance abuser in such a program shall be verified with the appropriate organization or center.

ii. An approved center shall be in possession of a letter from the New Jersey Department of Health, verifying certification by that agency.

7. Persons subject to and in compliance with a WFNJ/TANF work or training activity are exempt from food stamp work registration and participation in FSETP.

i. Persons failing to comply with a WFNJ/TANF requirement shall be disqualified in accordance with the provisions at N.J.A.C. 10:87-10.16. The CWA shall provide a notice of adverse action within 10 days after learning of the noncompliance with the WFNJ/TANF requirement.

ii. If an individual who is disqualified for failure to comply with a WFNJ/TANF work requirement com-

plies with the requirement in the middle of the disqualification, he or she may reapply for food stamps and, if otherwise eligible, resume participation.

iii. Households with a member who fails to comply with a WFNJ/TANF work or training requirement are subject to the provisions of the Riverside Rule (N.J.A.C. 10:87-5.7(c)).

8. Persons in receipt of unemployment compensation and persons who have applied for, but have not yet begun receiving unemployment compensation shall be exempt.

i. Persons failing to comply with an unemployment compensation requirement shall be disqualified in accordance with the provisions at N.J.A.C. 10:87-10.16. The CWA shall provide a notice of adverse action within 10 days after learning of the noncompliance with the unemployment compensation requirement.

ii. If an individual who is disqualified for failure to comply with a unemployment compensation requirement complies with the requirement in the middle of the disqualification, he or she may reapply for food stamps and, if otherwise eligible, resume participation.

9. Household members who are entitled to joint processing shall be exempt from work registration until they are determined eligible for SSI and therefore exempt from work registration in accordance with (b)4 above. If ineligible for SSI and where applicable, a determination of such an individual's work registration status will then be made through recertification procedures.

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

This section was originally "Definitions of FSP terms"; the text was repealed and the new section was recodified from 3.13(b).
Amended by R.1990 d.565, effective November 19, 1990.
See: 22 N.J.R. 2219(a), 22 N.J.R. 3486(a).

Deleted requirements that the number of persons disqualified from the Food Stamp Program for failure to comply with an employment and training (E & T) requirement or the number of E & T participants who become employed be identified on the FNS-583 Report.
Repealed by R.1998 d.498, effective October 5, 1998.
See: 30 N.J.R. 1928(a), 30 N.J.R. 3669(b).

Section was "State Plan requirements".
Amended by R.1989 d.121, effective February 21, 1989.
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

The original section was "document library" and was repealed. The new section was recodified from 3.18 (a)-(b).
Amended by R.1990 d.270, effective May 21, 1990.
See: 22 N.J.R. 139(a), 22 N.J.R. 1599(a).

In (b)7: clarified exemption for General Assistance and REACH work or training participants.

In (7): Deleted i. and ii. and added new text at 7 i-iv., clarifying GA and REACH recipients' exemption from food stamp work registration requirement.

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), deleted a former 4i(4), rewrote 7, and deleted a former 10.
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)8ii, substituted a reference to WFNJ/TANF for a reference to AFDC.

Recodified from N.J.A.C. 10:87-10.7 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 10:87-10.2 was reserved.

10:87-10.3 Persons losing exempt status

(a) Persons losing exempt status due to any change in circumstance that is subject to the reporting requirements at N.J.A.C. 10:87-9.5 shall register for employment when the change is reported according to the following procedures:

1. The CWA shall be responsible for providing the participant with the work registration form or by electronically recording the change when it is reported and for providing the participant with the notification required by N.J.A.C. 10:87-10.1(b)1.

2. Participants required to complete a registration form in lieu of an electronic registration, shall be responsible for returning the work registration form to the CWA within 10 calendar days from the date the work registration form was handed to the household member reporting the change in person, or the date the CWA mailed the work registration form.

3. If the household fails to return the work registration form, the CWA shall issue a notice of adverse action stating that the participant is being disqualified and why, but that the disqualification or termination can be avoided by returning the work registration form.

(b) Persons who lose their exempt status due to a change in circumstances that is not subject to the reporting requirements at N.J.A.C. 10:87-9.5 shall register for employment at the time of the household's next recertification.

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

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

The original section was "program code description" and was repealed. The new section was recodified from 3.18 (c). Recodified from N.J.A.C. 10:87-10.8 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 10:87-10.3 was reserved.

10:87-10.4 Work registrant requirements

(a) If a person is not exempt from employment and training requirements, the FSEPT worker shall be responsible for screening (assessing) that person and, if appropriate, referring him or her to an FSETP component within 10 days of the initial assessment. Upon entry into each component, the registrant participant or volunteer shall be informed, either orally or in writing, the requirements of the component, what will constitute noncompliance and the sanctions for noncompliance. The CWA shall take appropriate sanction action within 10 working days after learning of noncompliance.

1. An FSETP worker is an employee of the DOL or of the CWA, or any of the designated agencies contracted with the CWA or DOL, to provide FSETP services.

2. Assessment is defined as an in-depth evaluation of employability skills coupled with counseling on how and where to search for employment. If combined with work experience, employment search or training, an assessment of this nature could constitute part of an employment and training component.

(b) Work registrants shall:

1. Report, at the direction of the FSEPT worker, to an assessment interview and/or to an FSETP component;

2. Participate in an employment and training program activity, if assigned;

3. Respond to a request from the FSEPT worker for supplemental information regarding employment status or availability for work;

4. Report to an employer to whom referred by the FSEPT worker if the potential employment meets the suitability requirements described at N.J.A.C. 10:87-10.10.

5. Accept a bona fide offer of suitable employment at a wage not less than the higher of either the applicable State or Federal minimum wage.

(c) Employment and training programs are as follows:

1. Persons required to register for work and not exempted from placement in an FSETP component shall be subject to the employment and training requirements for that individual. Such individuals are referred to as FSETP mandatory participants.

2. Employment and training programs may include, but are not limited to, approved:

i. Job search activity (see N.J.A.C. 10:87-10.12 and 10.13);

ii. Training activity (see N.J.A.C. 10:87-10.14);

iii. Employment activity;

iv. On-the-job training when approved under the Workforce Investment Act of 1998 (WIA);

v. Work experience; or

vi. Other activity that will lead to gainful employment.

3. Failure to comply without good cause with the employment and training requirements shall result in disqualification of the individual in accordance with the provisions at N.J.A.C. 10:87-10.15.

4. The number of months a participant spends in an FSETP component shall be determined by the FSEPT worker. The FSEPT worker shall also determine the number of successive components in which a participant may be placed.

i. The number of required hours in any work or training component, or combination of components, shall be an average of 30 hours of activity per week per participant per month, not to exceed 120 hours per month.

ii. The household's monthly total work experience component hours shall not exceed the household's monthly total of cash assistance, plus emergency assistance, plus the food stamp benefit, divided by the higher of the State or Federal minimum wage.

iii. The total hours of participation in FSETP for any household member individually in any month, together with any hours worked for compensation in cash or in kind, shall not exceed 120 hours per month.

5. Participants in an employment and training program, including volunteers, shall receive a participant allowance provided through the CWA for costs of transportation, or other costs that are reasonably necessary and directly related to participation in the employment and training programs at a rate of up to \$6.00 per day, not to exceed \$120.00 per month per participant. Reimbursement above \$120.00 per month per participant may be issued on a case by case basis with the approval of DFD. Dependent care expenses shall not be reimbursed through this allowance, but shall be reimbursed in accordance with (c)6 below.

6. CWAs shall reimburse FSETP participants for the cost of dependent care it determines to be necessary for the participation of a household member in an FSEPT activity up to the actual cost of dependent care, or the applicable payment rate for child care, whichever is lowest. The payment rates for child care are established in accordance with the Child Care and Development Block Grant provisions and are set forth by the New Jersey Department of Human Services (DHS) at N.J.A.C. 10:15. The CWA shall provide a dependent care reimbursement to an FSETP participant for all dependents requiring care unless prohibited at N.J.A.C. 10:15, this section or at (c)6i through ix below. The dependent care reimbursement is in addition to the transportation allowance described in (c)5 above. A recipient shall be deferred from FSETP participation if the household's dependent care expenses would exceed the DHS Maximum Reimbursement Rates. Deferral shall continue until either a suitable FSETP component is available, or the household's dependent care circumstances change so that monthly dependent care expenses no longer exceed the DHS maximum reimbursement amount. Households receiving WFNJ/TANF benefits are not entitled to the dependent care reimbursement. When a child becomes 13 years of age, the dependent care reimbursement shall continue to be provided until the household's next recertification.

i. The CWA shall not provide a reimbursement for a dependent age 13 or older unless the dependent is physically and/or mentally incapable of caring for him or herself or is under court supervision. The CWA shall

provide a reimbursement for all dependents who are physically and/or mentally incapable of caring for themselves or who are under court supervision, regardless of age, if dependent care is necessary for the participation of a household member in an FSETP activity.

ii. The CWA shall obtain verification of the physical and/or mental incapacity for dependents age 13 or older if the physical and/or mental incapacity is questionable. The CWA shall verify a court-imposed requirement for the supervision of a dependent age 13 or older if the need for dependent care is questionable.

iii. If more than one household member is required to participate in an FSEPT activity, the CWA shall reimburse the actual cost of dependent care or the applicable payment rate for child care, whichever is lowest, for each dependent in the household, regardless of the number of household members participating in an FSEPT activity.

iv. An individual who is the caretaker relative of a dependent in a family receiving cash assistance under Title IV-A of the Social Security Act in a local area where an employment, training, or educational program under Title IV-A is in operation, is not eligible for such reimbursement.

v. An FSEPT participant is not entitled to the dependent care reimbursement if a member of the FSETP participant's food stamp household provides the dependent care services.

vi. The CWA shall verify the participant's need for dependent care and the cost of the dependent care prior to the issuance of the reimbursement. The verification shall include the name and address of the dependent care provider, the cost and hours of service (for example, five hours per day, five days per week for two weeks).

vii. A participant shall not be reimbursed for dependent care services beyond that which is required for participation in the FSETP activity.

viii. If dependent care is provided or arranged by the CWA or a State contracted agency, the dependent care shall meet all applicable standards of State and local law, including requirements designed to ensure basic health and safety protections (for example, fire safety).

ix. An FSETP participant may refuse available appropriate dependent care as provided or arranged for by the CWA or a State contracted agency, if the participant can arrange other dependent care or can show that such refusal will not prevent or interfere with participation in the FSETP activity as required.

7. Individuals may elect to voluntarily participate in available work and training programs.

i. The FSETP worker shall permit, to the extent practicable, persons exempt from work registration or employment and training requirements, or those not exempt who have complied or are complying with the requirements, to participate in any employment and training program offered.

ii. Voluntary participants in an FSETP component shall not be disqualified for failure to comply with work and training requirements.

iii. The hours of participation or work of a volunteer may not exceed the hours required of FSETP mandatory participants as specified in (c)4 above.

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

This section was recodified from 3.19 (a)-(c).
Amended by R.1991 d.247, effective May 6, 1991.
See: 23 N.J.R. 179(a), 23 N.J.R. 1412(b).

In (c)5: added text regarding dependent care expenses.
Deleted (c)5i, regarding the claiming as expenses of child care costs.
Added new (c)6 recodifying existing (c)6 as 7 with no change in text.
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 and references to ETP for references to the employment and training program throughout; in (b), rewrote 1; and in (c), rewrote 1, the introductory paragraph of 4 and 6.

Recodified from N.J.A.C. 10:87-10.9 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.

10:87-10.5 Voluntary quit or reduction of work effort

(a) Any individual subject to the food stamp work requirements who either voluntarily quits his or her job without good cause, or who voluntarily reduces his or her work to less than 30 hours per week or his or her wages to less than the equivalent of the Federal minimum wage multiplied by 30 hours, shall not be eligible for participation in the Food Stamp Program in accordance with the provisions at (c) below. Changes in employment status that result from involuntarily reducing hours of employment while working for the same employer, terminating a self-employment enterprise or resigning from a job at the demand of the employer shall not be considered as a reduction of work effort or a voluntary quit. If an individual quits a job, secures new employment at comparable wages or hours, and is then laid off or, through no fault of his or her own, loses the new job, the earlier quit shall not be the basis of a disqualification. An employee of the Federal Government, or of a State or local government who participates in a strike against such government, and is dismissed from his or her job because of participation in the strike shall be considered to have voluntarily quit his or her job without good cause (see N.J.A.C. 10:87-10.11 concerning strikers). The CWA shall explain to the household at the time of application the potential consequences of household members quitting a job or reducing their wages or hours of work without good cause.

(b) When a household files an application for participation, or when a participating household reports the loss of a source of income or a reduction in household earnings, the CWA shall determine if any household member voluntarily quit his or her job or reduced his or her work effort. The voluntary quit and reduction of work effort provisions apply if the employment involved 30 hours or more per week or provided weekly earnings at least equivalent to the Federal minimum wage multiplied by 30 hours; the quit or reduction occurred within 60 days prior to the date of application or anytime thereafter; and the quit was without good cause or the reduction of work was voluntary and without good cause. Benefits shall not be delayed beyond the application processing standards described at N.J.A.C. 10:87-2.26 and 2.28 pending the outcome of the determination.

1. An individual working under contract who declines, without good cause, a contract renewal offer with terms comparable to those of the previous contract, and who has not secured new employment at comparable wages/hours, shall be considered to have voluntarily quit.

2. Neither military personnel who do not re-enlist, nor persons who are not offered employment contract renewal, shall be considered to have voluntarily quit.

3. An individual who reduces his or her work hours to less than 30 hours a week shall remain exempt from program work requirements and shall not be considered to have reduced his or her work effort if his or her weekly earnings exceed the Federal minimum wage times 30 hours.

(c) The CWA shall take the appropriate action, as outlined in (c)1 through 4 below, upon a determination that a voluntarily quit or reduction in work effort occurred.

1. Upon a determination that a voluntarily quit or reduction in work effort has occurred, the CWA shall determine if the violation was with good cause as defined at N.J.A.C. 10:87-10.6. If the violation was not for good cause, the household's application for participation shall be acted upon as follows:

i. If the individual who committed the violation is the only member of the household, then the household shall be denied food stamp benefits for the duration of the disqualification period. The disqualification is effective upon the issuance of the notice of denial.

ii. If any member of the applicant household is found to have committed the violation, then only that individual shall be denied food stamp benefits for the duration of the disqualification period (see (c)2vi below). The disqualification is effective upon the determination of eligibility for the remaining household members. The income, resources, and allowable deductions of this ineligible household member shall be treated in accordance with N.J.A.C. 10:87-7.7(b).

10:87-10.8 Rules on ending a voluntary quit or a reduction in work disqualification

(a) Following the end of the mandatory disqualification period for voluntarily quitting a job or reducing work effort without good cause, an individual may begin participation in the program if he or she reapplies and is determined eligible by the CWA.

1. In a situation where the food stamp case remains active during the disqualification period, a formal reapplication is not needed. If the disqualified individual contacts the CWA, the worker can verify that the individual is in compliance with the work requirements and if so, can add him or her back onto the case.

(b) An individual's eligibility may not be reestablished during a voluntary quit or work reduction disqualification period except in accordance with (c) below.

(c) Eligibility may be reestablished during a voluntary quit or work reduction disqualification if the violator becomes exempt from work registration requirements in accordance with N.J.A.C. 10:87-10.2(b), other than the exemptions at N.J.A.C. 10:87-10.2(b)8 (exemption due to receipt of UIB) and 10.2(b)7 (exemption due to WFNJ/TANF work or training participation requirements). Additionally, if the individual, during the disqualification period, obtains employment of at least 30 hours per week or earns wages equivalent to the Federal minimum wage times 30 hours per week, he or she may reapply for food stamps and, if otherwise eligible, resume participation.

(d) Individuals who have been disqualified for voluntarily quitting a job or committing a work reduction shall carry their sanction with them. If they join a new household, they would still be subject to any remaining months of the disqualification period.

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

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

This section was recodified from 3.19 (d)6.

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), inserted a reference to individuals; and rewrote (b) through (d).

Recodified from N.J.A.C. 10:87-10.13 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. 10:87-10.8. Persons losing exempt status, recodified to N.J.A.C. 10:87-10.3.

10:87-10.9 Application in the final month of disqualification

Except in cases of permanent disqualification, if an application for participation in the FSP is filed in the final month of the mandatory disqualification period, the CWA shall use the same application for the denial of benefits in the remaining month of disqualification as well as for the certification for any subsequent month(s), if all other eligibility criteria are met.

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. 10:87-10.9, Work registration requirements, recodified to N.J.A.C. 10:87-10.4 .

10:87-10.10 Suitable employment

(a) Employment offered to a registrant shall be considered suitable unless one of the following conditions exist:

1. The wages offered are less than the highest of: the applicable Federal minimum wage, the applicable State minimum wage, or, if neither the State or Federal minimum wage is applicable, 80 percent of the Federal minimum wage. If the employment offered is on a piece-rate basis, and the average hourly yield the employee can reasonably be expected to earn is less than the applicable hourly wages specified above.

2. The registrant, as a condition of employment, is required to join, resign from, or refrain from joining, any legitimate labor organization.

3. The work offered is at a site subject to a strike or a lockout at the time of the offer unless the strike has been enjoined under Section 208 of the Labor-Management Relations Act (Taft-Hartley) or unless an injunction has been issued under Section 10 of the Railway Labor Act.

4. The registrant lacks adequate child care for children who have reached age 6 but are under age 12.

(b) In addition, employment offered a registrant shall be considered suitable unless the individual involved can demonstrate or the CWA otherwise becomes aware that:

1. The degree of risk to health and safety is unreasonable;

2. He or she is physically or mentally unfit to perform the employment, as established by documentary medical evidence or reliable information obtained from other sources;

3. The employment offered within the first 30 days of registration is not in his or her major field of experience;

4. The distance of the employment from his or her residence is unreasonable considering the expected wage and the time and cost of commuting. Employment shall not be considered suitable if daily commuting time exceeds 2 hours per day, not including the transportation of a child to and from a child care facility. Nor shall employment be considered suitable if the distance to the place of employment prohibits walking and neither public nor private transportation is available to transport the member to the job site;

5. The working hours or nature of the employment interferes with the individual's religious observances, convictions or beliefs; or

6. For students, the employment is offered during class hours or is more than 20 hours per week.

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

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

This section was recodified from 3.19 (e).

Recodified from N.J.A.C. 10:87-10.15 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 the introductory phrases throughout; in (a), substituted "unless one" for "when any" following "suitable"; in (b), neutralized the gender references. Former N.J.A.C. 10:87-10.10, Voluntary quit, recodified to N.J.A.C. 10:87-10.5.

10:87-10.11 Strikers

(a) Households with striking member(s) shall be ineligible to participate in the Food Stamp Program unless the household was (or would have been) eligible for benefits the day prior to the strike and is otherwise eligible at the time of application. Pre-strike eligibility shall be determined by considering the day prior to the strike as the day of application and assuming the strike did not occur. Such households shall retain their eligibility but shall not receive an increased allotment as a result of a decrease in the income of the striking member(s) of the household.

(b) The CWA shall determine eligibility by comparing the striking member's income before the strike to the striker's current income and adding the higher of the two figures to the current income of non-striking members during the month of application.

(c) To determine benefits (and eligibility for those households subject to the net income eligibility standard) deductions shall be calculated for the month of application as for any other household. Whether the striker's pre-strike earnings or current income is used, the earnings deduction shall be allowed, if appropriate.

(d) If other changes occur, such as but not limited to, a change in household size or non-strike related employment, the CWA shall take appropriate action and adjust the benefit level.

(e) Strikers shall be subject to work registration criteria.

(f) For the purpose of the Food Stamp Program the term "striker" shall be defined as anyone involved in a strike or concerted stoppage of work by employees (including a stoppage by reason of the expiration of a collective bargaining agreement) and any concerted slowdown or other concerted interruption of operations by employees. Additionally, any individual exempt from the work registration requirement, other than those exempt solely on the grounds that they are employed, shall not be deemed to be a striker. Examples of non-strikers who are eligible to participate in the program include, but are not limited to:

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

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

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

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

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

This section was originally 3.19 (f).

Recodified from N.J.A.C. 10:87-10.16 and amended by R.2004 d.181, effective May 17, 2004.

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

In (f), deleted the introductory phrase. Former N.J.A.C. 10:87-10.11, Good cause, recodified to N.J.A.C. 10:87-10.6.

Cross References

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

10:87-10.12 Job search components

(a) Persons required to register for work shall be subject to an independent job search or other appropriate Food Stamp Employment and Training Program (FSETP) activity.

(b) During the initial assessment interview, the DOL worker shall determine the job search requirements of each work registrant and shall provide each registrant with written notification regarding his or her job search requirements, procedures to be followed and the consequences of failure to comply. Based on the capabilities and characteristics of the registrant, the DOL worker shall determine the extent of appropriate DOL activity for each work registrant.

1. Those registrants that have no apparent substantial barriers to employment shall be considered job ready.

2. Persons on temporary layoff or expecting to return to work within 60 days, shall be considered non-job ready for 60 days from the date of initial registration. At the end of the 60 day period, such persons shall be contacted to redetermine appropriateness for participation in job search.

(c) Exempt:

1. The DOL determination of exempt status shall be made at the time the work registration form is received from the CWA to preclude the need of such registrants to travel to the DOL office for an interview, unless it is impossible for the DOL office to determine exempt status from the information on the work registration form.

2. Those work registrants for whom a job search is determined to be impractical, specifically including registrants residing an unreasonable distance from the DOL office location or considered to be unsuitable for participation in any efforts toward employment due to a permanent condition of unemployability shall be considered exempt. Such exemption shall be subject to reevaluation at the time of the individual's next recertification.

i. A distance shall be considered unreasonable if the round trip exceeds two hours by reasonably available public or private transportation.

3. Migrant and seasonal farmworkers away from their usual place of residence and following the work stream shall also be considered exempt.

4. Those registrants with substantial barriers to employment such as, but not limited to, medical or social problems documented in writing, language or other serious problems, that alone or in conjunction with adverse labor market conditions would make them difficult to place shall be considered exempt. Such exemption shall be subject to reevaluation at the time of the individual's next recertification.

(d) 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 DOL 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 DOL, 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 DOL 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 DOL office.

i. Twice during the eight week job search period the work registrant shall report at a prescheduled time to the DOL worker, the result of all job search contacts. If the eight week job search activity is divided into two separate periods, the DOL worker may require the

registrant to report once during each period of job search activity.

ii. Job contacts shall be reported in writing in a manner prescribed by DOL. At the time of the initial interview with the DOL 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 DOL worker at the work registrant's follow-up interview. The registrant shall be responsible for providing DOL, upon reasonable request, any additional information regarding job contacts.

(e) The DOL 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 DOL 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 DOL determination is improper, review of the determination may be obtained from a designated DOL 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 DOL determination that noncompliance was not for good cause.

(f) A complete file on each work registrant shall be maintained by the DOL 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)iii, 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.

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 DOL is making the non-cooperation determination, then the DOL 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/DOL 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 DOL, 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.

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 sanction 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 sanction 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 sanction 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 noncompliance 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.

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 DOL actions such as exemption status, the type of requirement imposed, or CWA or DOL 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 DOL, the CWA shall provide sufficient advance notice to DOL 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 DOL 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 DOL.

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.

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 DOL interview if the appointment notice was written only in English. Additionally, a victim of family violence who is determined to be unable to continue employment or to participate in a work activity shall be considered to have good cause for failure to comply.

1. In the case of a registrant's failure to comply due to the illness of another household member, such illness shall be sufficiently serious as to require the presence of the registrant.

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

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

This section was originally 3.20(d)-(e).

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 DOL for a reference to FSETP in the last sentence of the introductory paragraph.

Recodified from N.J.A.C. 10:87-10.23 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 (b), rewrote the introductory paragraph. Former N.J.A.C. 10:87-10.18, Job search training component, recodified to N.J.A.C. 10:87-10.13.

10:87-10.19 Ending disqualification for noncompliance with employment and training requirements

(a) Except in cases of permanent disqualification, at the end of the disqualification period for noncompliance with the work registration or employment and training requirements, participation may resume if the disqualified individual applies again and is determined by the CWA to be in compliance with work requirements, in accordance with (c) below.

1. If the disqualification period should lapse and, upon reapplication, the individual again refuses to comply with the work registration and/or work and training requirements, his or her disqualification shall continue.

(b) A disqualified individual shall be permitted to resume participation during the disqualification period (if otherwise eligible) by becoming exempt from work requirements.

(c) Eligibility may be re-established after a disqualification period has expired, and the individual shall, if otherwise eligible, be permitted to resume participation if he or she complies as follows:

1. Registration by the individual who refused to register.

2. Compliance with the request from the CWA, or the DOL office, to provide supplemental information regarding employment status or availability for work;

3. Reporting to that employer to whom referred by the FSETP worker if work is still available or to another employer to whom referred.

4. Acceptance of a bona fide offer of suitable employment to which referred by the FSETP worker, if still available to the participant, or securing other employment which yields earnings per week equivalent to the refused job, or securing employment of at least 30 hours per week or securing employment of less than 30 hours per week but with weekly earnings equal to the Federal minimum wage multiplied by 30 hours.

5. Compliance with the FSETP component assignment or requirement or an alternate assignment or requirement.

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

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

This section was originally 3.21.

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

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

In (b)4: added phrase "... or securing employment of less than 30 hours per week but ...".

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.

Recodified from N.J.A.C. 10:87-10.24 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. 10:87-10.19, Vocational/educational training component, recodified to N.J.A.C. 10:87-10.14.

10:87-10.20 Mandatory work activity for able-bodied adults without dependents (ABAWDS)

(a) Under the ABAWDS provision, unless exempt, an individual cannot continue to receive food stamp benefits if, for more than three full calendar months within a fixed 36-month period, he or she did not:

1. Work at least 20 hours per week (averaged monthly);

i. A recipient who is an employee under contract for employment on average of 20 hours/week (for example, a school employee) shall be considered to be continuing to meet the 20 hours per week requirement during temporary breaks between contracts, provided the employee intends to continue such employment after the contract expires, and that the total hours worked throughout the calendar year average at 20 hours per week; or

2. For 20 hours or more per week, participate in and comply with a WIA or Trade Adjustment Assistance Act (TAA) program activity, or Food Stamp Employment and Training Program (FSETP) activity other than a job search or job search training program; or

3. Participate in and comply with a food stamp workfare program, or a State-approved workfare program.

(b) Each 36-month fixed period applies to an individual recipient, not to the entire food stamp household. Once a 36-month period expires for a recipient, another shall immediately commence. It is possible to have different 36-month periods for two different recipients in the same household.

1. When calculating the three full calendar months within a fixed 36-month period, as cited at (a) above, the receipt of a partial month of food stamp benefits shall not be included.

(c) The ABAWDS provision does not apply to an individual during a month in which the individual is:

1. Under 18 or over 50 years of age;

i. "Over 50 years of age," for this purpose, is defined as the date the individual becomes age 50.

ii. A recipient becomes subject to the ABAWDS provision the month following the month in which the recipient turns 18 years of age.

2. Residing in certain specific municipalities or counties in New Jersey that have been approved by USDA to be exempt from the ABAWDS provision, based upon criteria prescribed by USDA. Also, an additional 15 percent of the ABAWD population may be waived. Both DFD and the CWAs retain a list of those approved counties and municipalities, as well as the categories of ABAWDs exempted under the discretionary 15 percent. The specific regions exempted from the ABAWDS provision and the categories for the discretionary exemptions are subject to periodic review by both DFD and USDA and, therefore, are subject to change.

3. Medically certified as physically or mentally unfit for employment. The certification worker shall document in the case record the verification methods utilized to determine that the recipient is unfit for employment. The CWA may utilize any of the following criteria to determine if the individual can be medically certified as physically or mentally unfit for employment:

i. Eligibility for SSI benefits for the blind or disabled, with the exception of "essential persons" (as defined by SSA);

ii. Receipt of temporary or permanent disability benefits issued by governmental or private sources; or

iii. A statement from a physician or licensed or certified psychologist which substantiates the applicant's claim of disability. The certification worker may obtain such medical verification either in writing or by telephone.

4. A parent or other member of a household with responsibility for a dependent child, age under 18. (This exemption may be allowed for more than one adult responsible for the same child.);

5. Pregnant; or

6. Exempt from food stamp work requirements at N.J.A.C. 10:87-10.2(b), with the exception of individuals who are exempt due to incapacity (N.J.A.C. 10:87-10.2(b)4).

(d) An individual losing FSP eligibility due to the ABAWDS provision can regain eligibility for up to a maximum of three consecutive additional months if, during a 30-day period, the individual first:

1. Works 80 hours or more;

2. For 80 hours or more, participates in and complies with either a WIA or TAA program activity, or an FSETP activity other than a job search or job search training program; or

3. Participates in and complies with either a food stamp workfare program, or a State-approved workfare program.

(e) Once the individual has met the reinstatement criteria in (d) above, he or she may participate (if otherwise eligible) in the Program for an extension period of three consecutive months while not being exempt from the ABAWDS provision.

(f) Once the three months of extended benefits are exhausted, the individual can only participate in the Program if he or she either meets the criteria in (a) or (c) above, or the fixed 36-month period for that individual expires.

(g) An individual who has his or her eligibility terminated due to this provision, but who subsequently files a food stamp application after that termination, shall have that application denied. The individual shall not be certified until he or she either first meets the reinstatement criteria established in (d) above, becomes exempt from the ABAWDS provision, or the 36-month ABAWDS time frame for that individual expires.

(h) There may be situations where an individual received benefits, is subsequently found to have been ineligible for benefits for a particular month(s), and the CWA establishes a claim to recover the month(s) of overissuance. As the claim is repaid for a particular month, that month shall not be treated as a month of receipt for ABAWDS purposes.

(i) An individual is exempt from the ABAWDS provision if he or she is enrolled at least half-time in a school or training program (N.J.A.C. 10:87-10.2(b)3). Refugee training programs which meet the conditions at N.J.A.C. 10:87-10.2(b)3 qualify an individual for an ABAWDS exemption.

(j) After the initial four week job search/job training, qualifying work programs for ABAWDS can contain job search as a subsidiary component, but the job search/job search training activity must be less than one half of the requirement. Since the State requires a minimum of 30 hours per week activity, FSETP workers shall ensure that no more than 14 hours of that activity is composed of job search/job training.

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

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

Recodified from N.J.A.C. 10:87-10.25 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. 10:87-10.20, Failure to comply, recodified to N.J.A.C. 10:87-10.15.

7. Policies on the imposition of disqualification penalties are as follows:

i. If the final hearing decision, as affirmed by the DFD Director, has found that the individual has committed an IPV, the household member shall be disqualified in accordance with the disqualification period and procedures specified at N.J.A.C. 10:87-11.2. The same act of an IPV repeated over a period of time shall not be separated so that separate penalties can be imposed;

ii. No further administrative appeal procedure exists after an IPV hearing. The determination of an IPV made by a disqualification arising from a final hearing decision cannot be reversed by a subsequent fair hearing decision. The household member, however, is entitled to seek relief in a court having appropriate jurisdiction. The period of disqualification may be subject to stay by a court of appropriate jurisdiction or other injunctive remedy;

iii. Once a disqualification 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.

8. Procedures for notification of hearing decision are as follows:

i. If the final hearing decision, as affirmed by the DFD Director, finds that the household member did not commit an IPV, DFD shall provide a written notice that informs the household of the decision.

ii. If the final hearing decision, as affirmed by the DFD Director, finds that the household member committed an IPV, DFD shall provide written notice to the household member, as well as to the CWA, prior to disqualification. The notice shall inform the household member of the decision and the reason for the decision. In addition, the CWA shall send a notice that informs the household member of the date the disqualification shall take effect. The CWA shall also provide written notice to the remaining household members, if any, of either the allotment they will receive during the period of disqualification or that they must reapply because the certification period has expired. The procedures for handling the income and resources of the disqualified member are described at N.J.A.C. 10:87-7.7(b). A written demand letter for restitution, as described at N.J.A.C. 10:87-11.20(i), shall also be provided.

As amended, R.1983 d.224, effective May 31, 1983.

See: 15 N.J.R. 633(a), 15 N.J.R. 1034(a).

Originally adopted as an Emergency Rule, R.1983 d.117, effective March 31, 1983, operative April 1, 1983. The amendments are

pursuant to the Food Stamp Act Amendments of 1982 (P.L. 97-253) and the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35). Section formerly definition of fraud deleted in entirety.

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

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

Recodified from 11.2.

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 "Definition of intentional program violation".

10:87-11.6 Waived hearings

(a) Accused individuals shall have the option to waive their rights to an administrative disqualification hearing. The procedures shall conform with the requirements outlined below:

1. The CWA shall provide written notification to the household member suspected of an IPV that the member can waive his or her right to an administrative disqualification hearing. Prior to providing this written notification to the household member, the CWA shall ensure that the evidence against the household member is reviewed by someone other than the eligibility worker assigned to the accused individual's household and a decision is obtained that such evidence warrants scheduling a disqualification hearing.

i. The written notification provided to the household member which informs him or her of the possibility of waiving the administrative disqualification hearing shall include, at a minimum the following:

(1) The date that the signed waiver must be received by the CWA to avoid the holding of a hearing and a signature block for the accused individual, along with the statement that the head of household must also sign the waiver if the accused individual is not the head of household, with an appropriately designated signature block;

(2) A statement of the accused individual's right to remain silent concerning the charge(s), and that anything said or signed by the individual concerning the charge(s) can be used against him or her in a court of law;

(3) The fact that a waiver of the disqualification hearing shall result in disqualification and a reduction in benefits for the period of disqualification, even if the accused individual does not admit to the facts as presented by the CWA;

(4) An opportunity for the accused individual to specify whether or not he or she admits to the facts as presented by the CWA;

(5) The telephone number and, if possible, the name of the person to contact for additional information; and

(6) The fact that the remaining household members, including an alien sponsor, if appropriate, and an authorized representative, if any, will be held responsible for repayment of the resulting claim.

ii. If the household member is notified of the possibility of waiving his or her right to an administrative disqualification hearing before the CWA has scheduled a hearing, the CWA is not required to notify the household member of the date, time and place of the hearing at that point.

2. If the household member suspected of an IPV signs the waiver of right to an administrative disqualification hearing and the signed waiver is received within the time frame specified at (a)1i(1) above, the household member shall be disqualified in accordance with the disqualification periods specified at N.J.A.C. 10:87-11.2(a).

i. The period of disqualification shall begin with the first month which follows the date the household member receives written notification of the disqualification. However, if the act of IPV which led to the disqualification occurred prior to the written notification of the disqualification periods specified at N.J.A.C. 10:87-11.2(a), the household member shall be disqualified in accordance with the disqualification periods in effect at the time of the offense. The same act of IPV repeated over a period of time shall not be separated so that separate penalties can be imposed.

ii. No further administrative appeal procedure exists after an individual waives his or her right to an administrative disqualification hearing and a disqualification penalty has been imposed. The disqualification penalty cannot be changed by a subsequent fair hearing decision. The household member, however, is entitled to seek relief in a court having appropriate jurisdiction or other injunctive remedy.

iii. Once a disqualification penalty has begun 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.

3. The CWA shall provide written notice to the household member prior to disqualification. The CWA shall also provide written notice to any remaining household members of the allotment they will receive during the period of disqualification or that they must reapply because the certification period has expired. The notice(s) shall conform to the requirements for notification of a hearing decision specified at N.J.A.C. 10:87-11.5(a)8. A written demand letter for restitution, as described at N.J.A.C. 10:87-11.20(i), shall also be provided.

As amended. R.1983 d.224, eff. May 31, 1983.

See: 15 N.J.R. 633(a), 15 N.J.R. 1034(a).

Originally adopted as an Emergency Rule. R.1983 d.117, eff. March 31, 1983, operative April 1, 1983. The amendments are pursuant to the Food Stamp Act Amendments of 1982 (P.L. 97-253) and the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35).

Entire text concerning fraud deleted and replaced.
Amended by R.1989 d.121, effective February 21, 1989.

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

Section recodified from 11.3. Cross reference changed from 11.2 to 11.5. The original section was reserved. The annotations to that section follow:

Repealed, R.1983 d.224, eff. May 31, 1983.

See: 15 N.J.R. 633(a), 15 N.J.R. 1034(a).

Originally adopted as an Emergency Rule. R.1983 d.117, eff. March 31, 1983, operative April 1, 1983. The amendments are pursuant to the Food Stamp Act Amendments of 1982 (P.L. 97-253) and the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35).

Originally contained rules concerning criteria for determining fraud.

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".

10:87-11.7 Court imposed disqualification

(a) CWAs are encouraged to refer for prosecution under State statutes those individuals suspected of committing an IPV, particularly if large amounts of food stamps are suspected of being obtained by acts of IPV or if the individual is suspected of committing more than one act of IPV.

(b) The CWA shall confer with its legal representative to determine the types of cases that will be accepted for possible prosecution.

(c) The CWA shall also encourage prosecutors to recommend to the courts that a disqualification penalty as provided at section 6(b) of the Food Stamp Act (7 U.S.C. § 2015) be imposed in addition to any other civil or criminal penalties for such violations.

1. If the court does not impose a disqualification period, the CWA shall impose the appropriate disqualification period, unless contrary to the court order.

2. If disqualification is ordered but a date for initiating the disqualification period is not specified, the CWA shall initiate the disqualification period for currently eligible individuals within 45 days of the date the disqualification was ordered. Any other court-imposed disqualification shall begin within 45 days of the date the court found a currently eligible individual guilty of civil or criminal misrepresentation or fraud.

3. Once a disqualification 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 court finds that the household member committed an IPV, the CWA shall provide written notice to the household member. The notice shall be provided prior to 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)1vi, 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".

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 repay-

ment 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 readily identify those situations where a claim against a household can be used to offset the amount to be restored.

As amended, R.1983 d.224, effective May 31, 1983.
See: 15 N.J.R. 633(a), 15 N.J.R. 1034(a).

Originally adopted as an Emergency Rule, R.1983 d.117, effective March 31, 1983, operative April 1, 1983. The amendments are pursuant to the Food Stamp Act Amendments of 1982 (P.L. 97-253) and the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35).

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

Recodified from 11.16.

Recodified from N.J.A.C. 10:87-11.18 and amended by R.2004 d. 181, effective May 17, 2004.

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

Deleted introductory phrases throughout.

10:87-11.17 Method of restoration

(a) Regardless of whether a household is currently eligible or ineligible, the CWA shall restore lost benefits to a household by issuing an allotment equal to the amount of benefits that were lost. The amount restored shall be issued in addition to the allotment currently eligible households are entitled to receive.

(b) The CWA shall honor reasonable requests by households to restore lost benefits in monthly installments if, for example, the household fears that the amount to be restored is more than it can use in a reasonable period of time.

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

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

Recodified from 11.17.

Recodified from N.J.A.C. 10:87-11.19 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 (b). Former N.J.A.C. 10:87-11.17, Computing amount to be restored, recodified to N.J.A.C. 10:87-11.15.

10:87-11.18 Change in household composition

Whenever lost benefits are due a household and the household's membership has changed, the CWA shall restore the lost benefits to the household containing a majority of the individuals who were household members at the time the loss occurred. If the CWA cannot locate or determine the household which contains a majority of the household members the CWA shall restore the lost benefits to the household containing the individual who was head of the household (see N.J.A.C. 10:87-2.6) at the time the loss occurred.

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

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

Recodified from 11.18.

Recodified from N.J.A.C. 10:87-11.20 and amended by R.2004 d. 181, effective May 17, 2004.

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

Substituted "loss" for "error" in the last sentence. Former N.J.A.C. 10:87-11.18, Individuals disqualified for intentional program violation, recodified to N.J.A.C. 10:87-11.16.

10:87-11.19 Federally mandated reduction or cancellation of benefits

Households whose allotments are reduced or cancelled as a result of a Federal mandate are not entitled to a restoration of lost benefits unless DFD, upon notification by USDA/FNS, specifically authorizes such restoration.

As amended, R.1981 d.64, effective February 26, 1981.

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

As amended, R.1983 d.224, effective May 31, 1983.

See: 15 N.J.R. 633(a), 15 N.J.R. 1034(a).

Originally adopted as an Emergency Rule, R.1983 d.117, effective March 31, 1983, operative April 1, 1983.

The N.J.A.C. cite was recodified from 10:87-20A to 10:87-20, the text remained the same.

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

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

Recodified from 11.20.

Recodified from N.J.A.C. 10:87-11.22 and 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" and "USDA/FNS" for "USDA". Former N.J.A.C. 10:87-11.19, Method of restoration, recodified to N.J.A.C. 10:87-11.17.

10:87-11.20 Claims against households

(a) A recipient claim is an amount owed because of benefits that are over paid or benefits that are trafficked.

1. Trafficking means the buying or selling of coupons, ATP cards or other benefit instruments for cash or considerations other than eligible food; or the exchange of firearms, ammunition, explosives or controlled substances.

(b) Recipient claims are Federal debts subject to 7 C.F.R. 273.18 and other regulations governing Federal debts. The CWA shall establish and collect any claim by following the rules of this subchapter.

(c) The CWA shall have procedures for establishing and collecting claims that provide orderly claims processing and result in claims collections similar to recent national rates of collection. If the CWA does not meet State standards, it must take corrective action to correct any deficiencies in its procedures.

(d) The following are responsible for paying a claim:

1. Each person who was an adult member of the household when the overpayment or trafficking occurred;
2. A sponsor of an alien household member if the sponsor is at fault; or
3. A person connected to the household, such as an authorized representative, who actually trafficks or otherwise causes an overpayment or trafficking.

(e) There are three types of claims:

1. An IPV claim is any claim for an overpayment or trafficking resulting from an individual committing an IPV. An IPV is defined at N.J.A.C. 10:87-11.3.

2. An Inadvertent Household Error (IHE) claim is any claim for an overpayment resulting from a misunderstanding or unintended error on the part of the household.

3. An Agency Error (AE) claim is any claim for an overpayment caused by an action or failure to take action by the CWA.

(f) The process for calculating the claim amount on the following types of claims is as follows:

1. Claims not related to trafficking are as follows:

i. The CWA shall calculate a claim back to at least 12 months prior to when it becomes aware of the overpayment. For an IPV claim, the claim shall be calculated back to the month the act of IPV first occurred. For all claims, do not include any amounts that occurred more than six years before the CWA became aware of the overpayment.

ii. The actual steps for calculating a claim are as follows:

(1) The CWA shall determine the correct amount of benefits for each month that a household received an overpayment.

(2) Do not apply the earned income deduction to that part of any earned income that the household failed to report in a timely manner when this act is the basis for the claim. However, if the claim is an AE claim, the earned income deduction is applied.

(3) Subtract the correct amount of benefits from the benefits actually received. The answer is the amount of the overpayment. Unless this answer is zero or negative, dispose of the claim referral.

(4) Reduce the overpayment amount by any Electronic Benefit Transfer (EBT) benefits expunged from the household's EBT account. The difference is the amount of the claim. Unless there are expunged benefits that the CWA is not aware of, the amount of the overpayment calculated at (f)1ii(3) above is the amount of the claim.

2. Claims related to trafficking are as follows:

i. Claims arising from trafficking related offenses will be the value of the trafficked benefits as determined by:

(1) The individual's admission;

(2) Adjudication; or

(3) The documentation that forms the basis for the trafficking determination.

(g) The CWA shall establish a claim before the last day of the quarter following the quarter in which the overpayment or trafficking incident was discovered. The CWA shall ensure that no less than 90 percent of all claim referrals are either established or disposed of according to this time frame.

(h) Rules on initiating collection action and claims are as follows:

1. The CWA shall begin collection action on all claims unless the conditions at (h)2i below apply.

2. The CWA shall not pursue an overpayment that is not cost effective. The following procedure shall be used in determining cost effectiveness.

i. The CWA shall not establish any claim if it determines that the claim referral is \$125.00 or less. However, if the household is currently participating in the program, or the CWA already established the claim or discovered the overpayment in a quality control review, the \$125.00 limit does not apply.

(i) Rules on notification of a claim are as follows:

1. The CWA shall mail or otherwise deliver to the household written notification, using the applicable Important Notice to Repay Overissued Food Stamps form, to begin collection action on any claim.

2. The claim shall be considered established for tracking purposes as of the date of the initial demand letter or written notification.

3. If the claim or the amount of the claim was not established at a hearing, the CWA shall provide the household with a one-time notice of adverse action. The notice of adverse action may either be sent separately or as part of the demand letter.

4. The initial demand letter or notice of adverse action shall include language stating:

i. The amount of the claim;

ii. The intent to collect from all adults in the household when the overpayment occurred;

iii. The type (IPV, IHE, AE or similar language) and reason for the claim;

iv. The time period associated with the claim;

v. How the claim was calculated;

vi. Phone number to call for more information about the claim;

vii. That, if the claim is not paid, it shall be sent to other collection agencies who will use various collection methods to collect the claim;

viii. The opportunity to inspect and copy records related to the claim;

ix. Unless the amount of the claim was established at a hearing, the opportunity for a fair hearing on the decision related to the claim. The household shall have 90 days to request a fair hearing;

x. That, if not paid, the claim shall be referred to the Federal government for Federal collection action;

xi. That the household can make a written agreement to repay the amount of the claim prior to it being referred for Federal collection action;

xii. That, if the claim becomes delinquent, the household may be subject to additional processing charges;

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 prehearing 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. Accepting paper food coupons, as applicable. The CWA shall destroy any coupons or coupon books that are not returned to inventory and document as appropriate.

v. 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.

vi. 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.

vii. Participating in the Treasury collection programs. However, the CWA shall follow the procedures found at N.J.A.C. 10:87-11.22.

(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. 10:88-8.2. 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 (DOL), 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 for reporting purposes.

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 revo-

cation 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".

10:87-11.21 Operation Judgement Day

(a) Rules for Operation Judgement Day (OJD) recovery initiative are as follows:

1. The CWA may pursue other collection actions, as appropriate, to obtain restitution of a claim against any household which fails to respond to a written demand letter for repayment of a claim. For example: when CWAs obtain civil judgements through the courts against former WFNJ/TANF and/or Food Stamp recipients to recover prior overpayments, the civil judgement entitles a CWA to legally recover overissued benefits from former clients. Some of these overpayments, however, are not collected because the CWA lacks adequate resources to locate the delinquent recipient in order to have the judgement enforced. Additionally, many lending institutions are reluctant to approve loans of any type to individuals with outstanding judgements. The purpose of OJD is to provide the nation's three largest credit bureaus with information on delinquent clients and their outstanding judgements, thereby, encouraging these individuals to repay their overpayments in order to maintain satisfactory credit ratings.

2. In order to forward a debtor's name to the credit bureaus, a CWA shall secure accurate information concerning each adjudicated individual and submit it to the DFD Client Investigations Unit via a completed OJD form. The Client Investigations Unit inputs the recipient information, which is then processed by the Office of Information Systems (OIS) and converted to cartridge. The Unit forwards these cartridges to the credit agencies on a monthly basis so that they may accrete or delete these judgement cases from their files.

3. The CWA shall also submit the OJD form to the Client Investigations Unit when the debtor repays the overissuance, or when an error is discovered and the judgement must be completely deleted from credit bureau files. Errors include instances where the judgement had previously been satisfied and the case was erroneously submitted, where the judgement has been vacated by an appropriate court or where any error has been made by the CWA. It is imperative that CWAs immediately advise the Client Investigations Unit at DFD of any change in the debtor's status so that the correct information can be reported to the credit bureaus.

4. In order to conform with credit agency listings and to ensure that only timely information is submitted, the State's limitation regarding the OJD recovery initiative is six years or less, from the date of the judgement. This means that only judgements executed within the past six years are appropriate for submission by the CWAs to the Client Investigations Unit.

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".

10:87-11.22 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.

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".

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.

See: 24 N.J.R. 3769(b).
 Public Notice: Maximum allowable net income, effective October 1, 1993.
 See: 25 N.J.R. 5365(a).
 Public Notice: Maximum allowable net income, effective October 1, 1994.
 See: 26 N.J.R. 3901(a).
 Public Notice: Maximum allowable net income, effective October 1, 1995.
 See: 27 N.J.R. 4919(b).
 Public Notice: Maximum allowable net income, effective October 1, 1996.
 See: 28 N.J.R. 4677(b).
 Public Notice: Income eligibility, deduction, and coupon allotment standards, effective October 1, 1998.
 See: 30 N.J.R. 3866(a).
 Public Notice: Income eligibility, deduction, and coupon allotment standards, effective October 1, 1999.
 See: 31 N.J.R. 3135(b).
 Public Notice: Income eligibility, deduction, and coupon allotment standards, effective October 1, 2000.
 See: 32 N.J.R. 3667(b).
 Public Notice: Income eligibility, deduction, and coupon allotment standards, effective October 1, 2001.
 See: 33 N.J.R. 3556(a).
 Public Notice: Food stamp eligibility, deduction and coupon allotment standards.
 See: 34 N.J.R. 3544(a).
 Amended by R.2004 d.181, effective May 17, 2004.
 See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

Law Review and Journal Commentaries

Food Stamps. Steven P. Bann, 137 N.J.L.J. No. 15, 83 (1994).

Case Notes

Adoption of amendments to regulation cited as example of swift rulemaking by Division of Public Welfare. *Eherenstorfer v. Div. of Public Welfare*, 196 N.J.Super. 405, 483 A.2d 212 (App.Div.1984).

10:87-12.4 Maximum allowable gross income standards

The maximum allowable gross income standards shall be those calculated by the United States Department of Agriculture and published annually in the Federal Register, pursuant to 7 C.F.R. 273.9(a) and effective October 1 of each year.

Amended by R.1979 d.234, effective July 1, 1979.

See: 11 N.J.R. 346(e).

Amended by R.1979 d.477, effective January 1, 1980.

See: 12 N.J.R. 42(a).

Increased Coupon allotments.

Amended by R.1980 d.296, effective July 1, 1980.

See: 12 N.J.R. 482(b).

Amended to reflect the Federal adjustment in maximum allowable net income standards, monthly coupon allotments and allowable gross income limits for tax dependents.

Amended by R.1980 d.558, effective January 1, 1981.

See: 13 N.J.R. 100(e).

Old text entirely deleted and replaced with new text.

Emergency Amendment, 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).

Table concerning "Monthly Coupon Allotment" deleted and replaced with "Maximum Allowable Gross Income Standards."

Amended by R.1982 d.318, effective September 2, 1982.

See: 14 N.J.R. 757(d), 14 N.J.R. 1057(a).

Increases in maximum allowable gross income reflect annual Federal adjustments for cost of living.

Amended by R.1983 d.382, effective August 30, 1983.

See: 15 N.J.R. 1185(a), 15 N.J.R. 1583(b).

Gross income standards increased.

Amended by R.1984 d.413, effective September 17, 1984.

See: 16 N.J.R. 1935(a), 16 N.J.R. 2442(a).

Gross income standards increased.

Emergency Amendment R.1985 d.371, effective June 24, 1985 (operative July 1, 1985, expires August 23, 1985).

See: 17 N.J.R. 1793(a).

Maximum Allowable Income raised.

Readoption R.1985 d.480, effective August 26, 1985.

See: 17 N.J.R. 1793(a), 17 N.J.R. 2273(b).

Emergency Amendment and Concurrent Proposal, R.1986 d.297, effective June 30, 1986 (operative July 1, 1986).

See: 18 N.J.R. 1490(a).

Maximum Allowable Income raised.

Readopted Concurrent Proposal, R.1986 d.395, effective October 6, 1986.

See: 18 N.J.R. 1490(a), 18 N.J.R. 2015(c).

Emergency Amendment, R.1987 d.304, effective June 25, 1987 (operative July 1, 1987, expires August 24, 1987).

See: 19 N.J.R. 1331(a).

Adoption of Concurrent Proposal as R.1987 d.375, effective August 24, 1987.

See: 19 N.J.R. 1331(a), 19 N.J.R. 1738(b).

Provisions of emergency amendment R.1987 d.304 readopted without change.

Emergency amendment, R.1988 d.512, effective September 20, 1988 (operative October 1, 1988, expires November 29, 1988).

See: 20 N.J.R. 2592(a).

Raised maximum allowable gross income.

Adoption of concurrent proposal R.1989 d.1, effective November 29, 1988.

See: 20 N.J.R. 2592(a), 21 N.J.R. 21(a).

Provisions of emergency rule R.1988 d.512 readopted without change.

Emergency amendment, R.1989 d.533, effective September 22, 1989 (expires November 21, 1989).

See: 21 N.J.R. 3316(a).

Maximum allowable gross income raised to conform to Federal requirements.

Adopted concurrent proposal, R.1989 d.606, effective November 21, 1989.

See: 21 N.J.R. 3316(a), 21 N.J.R. 3918(b).

Provisions of emergency amendment R.1989 d.533 readopted without change.

Amended by R.1990 d.437, effective September 4, 1990.

See: 22 N.J.R. 1670(a), 22 N.J.R. 2715(a).

Deleted Table IV, replacing with text explaining annual calculation and publishing schedule.

Public Notice: Maximum allowable gross income revised to conform to Federal requirements.

See: 24 N.J.R. 3769(b).

Public Notice: Maximum allowable gross income, effective October 1, 1993.

See: 25 N.J.R. 5365(a).

Public Notice: Maximum allowable gross income, effective October 1, 1994.

See: 26 N.J.R. 3901(a).

Public Notice: Maximum allowable gross income, effective October 1, 1995.

See: 27 N.J.R. 4919(b).

Public Notice: Maximum allowable gross income, effective October 1, 1996.

See: 28 N.J.R. 4677(b).

Public Notice: Income eligibility, deduction, and coupon allotment standards, effective October 1, 1998.

See: 30 N.J.R. 3866(a).

Public Notice: Income eligibility, deduction, and coupon allotment standards, effective October 1, 1999.

See: 31 N.J.R. 3135(b).

Public Notice: Income eligibility, deduction, and coupon allotment standards, effective October 1, 2000.

See: 32 N.J.R. 3667(b).

Public Notice: Income eligibility, deduction, and coupon allotment standards, effective October 1, 2001.

See: 33 N.J.R. 3556(a).

Public Notice: Food stamp eligibility, deduction and coupon allotment standards.

See: 34 N.J.R. 3544(a).

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

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

Case Notes

Adoption of amendments to regulation cited as example of swift rulemaking by Division of Public Welfare. *Eherenstorfer v. Div. of Public Welfare*, 196 N.J.Super. 405, 483 A.2d 212 (App.Div.1984).

10:87-12.5 Food stamp allotment proration

(a) In accordance with 7 CFR 273.10(a)(1)(iii), the formula for determining food stamp proration is as follows:

$$\frac{\text{Full month's benefits} \times (31 \text{ minus date of application})}{30} = \text{prorated allotment}$$

1. The computation in (a) above is to be carried out in the following sequence:

i. Subtract the date of application from 31;

ii. Multiply the result in setup (a)li above by the full month's benefit; and

iii. Divide the result in step (a)lii above by 30.

(b) After using the formula in (a) above to determine the allotment, the CWA shall round the product down to the nearest lower whole dollar if it ends in 1 through 99 cents;

(c) If the computation results in an allotment of less than \$10.00, then no issuance shall be made for the initial month.

Amended by R.1979 d.234, effective July 1, 1979.

See: 11 N.J.R. 346(e).

Amended by R.1979 d.477, effective January 1, 1980.

See: 12 N.J.R. 42(a).

Increased Gross Income limits.

Amended by R.1980 d.296, effective July 1, 1980.

See: 12 N.J.R. 482(b).

Amended to reflect the Federal adjustment in maximum Gross Income Limits allowable for tax dependency.

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

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

Section concerning tax dependency and allowable gross income limits repealed.

Emergency new rule, 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).

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.1984 d.20, effective February 6, 1984.

See: 15 N.J.R. 1918(a), 16 N.J.R. 246(b).

Proration formula revised to eliminate downward bias.

Amended by R. 1990 d.437, effective September 4, 1990.

See: 22 N.J.R. 1670(a), 22 N.J.R. 2715(a).

In (a), included Federal citation in text.

10:87-12.6 Monthly benefit allotment

(a) In accordance with 7 C.F.R. 273.10(e)(2)(ii), the formula for determining the monthly benefit is as follows:

1. To determine the benefit households shall receive:

i. Multiply the net monthly food stamp income by 30 percent; then

ii. Round the product up to the next dollar if it ends in cents; then

iii. Subtract the result from the maximum benefit allotment for that size household; then

iv. If the computation results in an allotment of \$1.00, \$3.00 or \$5.00, round up to \$2.00, \$4.00 or \$6.00, respectively when determining initial month's benefits.

v. If the allotment is for a one or two-person household and is less than \$10.00, round up to the minimum monthly allotment of \$10.00 except when determining initial month's benefits;

vi. If the calculation of benefits for an initial month would result in an allotment of less than \$10.00 for the household, no benefits shall be issued to the household for the initial month.

Emergency New Rule, 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).

Amended by R.1982 d.318, effective September 2, 1982.

See: 14 N.J.R. 757(d), 14 N.J.R. 1057(a).

Rounding up prohibited in determining initial month's benefits.

Amended by R.1982 d.442, effective December 1, 1982.

See: 14 N.J.R. 1170(a), 14 N.J.R. 1463(a).

Originally filed as an emergency adoption (R.1982 d.365) on October 1, 1982. Readopted as R.1982 d.442. Rounding up of the product if it ends in cents.

Amended by R.1983 d.121, effective April 14, 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. 1990 d.437, effective September 4, 1990.

See: 22 N.J.R. 1670(a), 22 N.J.R. 2715(a).

In (a): added Federal citation in text.

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 "Benefit determination without the tables;" in 1; and substituted "benefit" for "coupon" throughout.

10:87-12.7 165 percent of poverty level

The 165 percent of poverty level amounts shall be that established and published annually as required by 7 U.S.C. 2014(c).

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

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