

CHAPTER 82

ASSISTANCE STANDARDS HANDBOOK

Authority

N.J.S.A. 44:10-3, 58 FR 49218, 45 CFR 233.20 and
Federal Action Transmittal ACF-AT-93-17.

Source and Effective Date

R.1994 d.430, effective July 25, 1994.
See: 26 N.J.R. 1584(a), 26 N.J.R. 3483(a).

Executive Order No. 66(1978) Expiration Date

Chapter 82, Assistance Standards Handbook, expires on July 25,
1999.

Chapter Historical Note

Chapter 82, Assistance Standards Handbook, was filed and became effective prior to September 1, 1969. Amendments became effective July 24, 1974 as R.1974 d.205. See: 6 N.J.R. 243(b), 6 N.J.R. 312(b). Revisions became effective April 15, 1975 as R.1975 d.93. See: 7 N.J.R. 58(b), 7 N.J.R. 227(b). Further amendments became effective February 1, 1976 as R.1976 d.27. See: 7 N.J.R. 567(a), 8 N.J.R. 124(a).

Revisions for 1977: Amendments became effective May 25, 1977 as R.1977 d.190. See: 9 N.J.R. 175(b), 9 N.J.R. 278(d). Further amendments became effective June 1, 1977 as R.1977 d.188. See: 9 N.J.R. 174(b), 9 N.J.R. 278(b). Further revisions became effective July 1, 1977 as R.1977 d.211. See: 9 N.J.R. 342(b). Further amendments became effective August 17, 1977 as R.1977 d.220. See: 9 N.J.R. 434(e). Further amendments became effective December 1, 1977. See: 9 N.J.R. 431(d), 9 N.J.R. 584(b).

Revisions for 1978: Amendments became effective April 1, 1978 as R.1978 d.76. See: 10 N.J.R. 14(b), 10 N.J.R. 153(c). Further amendments became effective June 1, 1978 as R.1978 d.157. See: 10 N.J.R. 113(a), 8 N.J.R. 255(b). Further amendments became effective June 8, 1978 as R.1978 d.191. See: 10 N.J.R. 286(b). Further amendments became effective July 10, 1978 as R.1978 d.229. See: 10 N.J.R. 254(a), 10 N.J.R. 346(b). Further revisions became effective August 1, 1978 as R.1978 d.218. See: 10 N.J.R. 113(a). Further amendments became effective September 7, 1978 as R.1978 d.314. See: 10 N.J.R. 444(a). Further amendments became effective December 6, 1978 as R.1978 d.415. See: 10 N.J.R. 432(a), 11 N.J.R. 17(c).

Revisions for 1979: Amendments became effective February 1, 1979 as R.1978 d.438. See: 10 N.J.R. 487(b), 11 N.J.R. 75(a). Further amendments became effective March 15, 1979 as R.1979 d.108. See: 10 N.J.R. 538(a), 11 N.J.R. 196(c). Further amendments became effective July 1, 1979 as R.1979 d.256. See: 11 N.J.R. 282(a), 11 N.J.R. 382(a). Further amendments became effective August 1, 1979 as R.1979 d.232. See: 11 N.J.R. 183(b), 11 N.J.R. 346(c). Further amendments became effective November 1, 1979 as R.1979 d.424. See: 11 N.J.R. 447(b), 11 N.J.R. 560(a). Further amendments became effective December 1, 1979 as R.1979 d.427. See: 11 N.J.R. 446(b), 11 N.J.R. 560(c).

Revisions for 1980: Amendments became effective March 1, 1980 as R.1980 d.28. See: 11 N.J.R. 556(a), 12 N.J.R. 86(c). Further amendments became effective March 19, 1980 as R.1980 d.120. See: 12 N.J.R. 28(a), 12 N.J.R. 194(e). Further amendments became effective April 1, 1980 as R.1980 d.79. See: 11 N.J.R. 555(a), 12 N.J.R. 126(d). Further amendments became effective May 1, 1980 as R.1980 d.82. See: 12 N.J.R. 29(a), 12 N.J.R. 127(b). Further amendments became effective July 1, 1980 as R.1980 d.294. See: 12 N.J.R. 481(b). Further amendments became effective August 1, 1980 as R.1980 d.332. See: 12 N.J.R. 320(c), 12 N.J.R. 484(b). Further amendments became

effective September 1, 1980 as R.1980 d.331. See: 12 N.J.R. 320(b), 12 N.J.R. 484(a). Further amendments became effective September 8, 1980 as R.1980 d.383. See: 12 N.J.R. 414(a), 12 N.J.R. 599(b). Further amendments became effective November 1, 1980 as R.1980 d.451. See: 12 N.J.R. 522(b), 12 N.J.R. 664(c).

Revisions for 1981: Amendments became effective February 1, 1981 as R.1980 d.552. See: 12 N.J.R. 584(a), 13 N.J.R. 101(a). Further amendments became effective February 5, 1981 as R.1981 d.47. See: 13 N.J.R. 16(a), 13 N.J.R. 147(b). Further amendments became effective April 9, 1981 as R.1981 d.96. See: 13 N.J.R. 96(a), 13 N.J.R. 227(b). Further amendments became effective July 9, 1981 as R.1981 d.262. See: 13 N.J.R. 300(a), 13 N.J.R. 432(b). Further amendments became effective August 6, 1981 as R.1981 d.282. See: 13 N.J.R. 224(b), 13 N.J.R. 499(a). Emergency amendments became effective September 30, 1981 to expire November 30, 1981 as R.1981 d.396. See: 13 N.J.R. 763(a). The above emergency adoption was readopted effective December 31, 1981 as R.1981 d.519. See: 13 N.J.R. 763(a), 14 N.J.R. 102(d).

Revisions for 1982: Amendments became effective March 1, 1982 as R.1982 d.43. See: 13 N.J.R. 134(c), 14 N.J.R. 235(c). Further amendments became effective July 6, 1982 as R.1982 d.207. See: 14 N.J.R. 375(a), 14 N.J.R. 709(d). Further amendments became effective October 18, 1982 as R.1982 d.353. See: 14 N.J.R. 814(b), 14 N.J.R. 1161(d). Further amendments became effective November 1, 1982 as R.1982 d.376. See: 14 N.J.R. 698(a), 14 N.J.R. 1215(a). Emergency adoption filed on October 1, 1982 as R.1982 d.367 was readopted with amendments to become effective December 1, 1982 as R.1982 d.440. See: 14 N.J.R. 1169(a), 14 N.J.R. 1461(a). Further amendments became effective December 20, 1982 as R.1982 d.443. See: 14 N.J.R. 952(a), 14 N.J.R. 1459(b).

Revisions for 1983: Amendments became effective March 21, 1983 as R.1983 d.93. See: 14 N.J.R. 1438(a), 15 N.J.R. 443(c). Subchapters 1, 2 and 3 were readopted and further amendments became effective July 20, 1983 as R.1983 d.318. See: 15 N.J.R. 935(a), 15 N.J.R. 1377(a). Further amendments became effective November 7, 1983 as R.1983 d.504. See: 15 N.J.R. 1431(a), 15 N.J.R. 1865(a). Subchapter 5 was readopted effective November 29, 1983 as R.1983 d.578. See: 15 N.J.R. 1628(a), 15 N.J.R. 2170(a). Further revisions became effective December 20, 1983 as R.1983 d.443. See: 14 N.J.R. 952(a), 14 N.J.R. 1459(b).

Revisions for 1984: Amendments became effective May 21, 1984 as R.1984 d.191. See: 15 N.J.R. 2019(a), 16 N.J.R. 1272(a). Further amendments became effective June 18, 1984 (operative July 1, 1984) as R.1984 d.242. See: 16 N.J.R. 829(a), 16 N.J.R. 1607(a). Further amendments became effective July 18, 1984 as R.1984 d.242. See: 16 N.J.R. 829(a), 16 N.J.R. 1607(a), 17 N.J.R. 2691(a). Further amendments became effective September 28, 1984 (operative October 1, 1984) as R.1984 d.463. See: 16 N.J.R. 2837(a). Subchapter 4 was readopted effective October 29, 1984 as R.1984 d.528. See: 16 N.J.R. 2336(b), 16 N.J.R. 3206(b). Further revisions became effective November 19, 1984 as R.1984 d.528. See: 16 N.J.R. 2336(a), 16 N.J.R. 3206(b). Further revisions became effective November 28, 1984 as R.1984 d.568. See: 16 N.J.R. 2837(a), 16 N.J.R. 3442(a).

Revisions for 1985: Amendments became effective June 17, 1985 as R.1985 d.299. See: 17 N.J.R. 546(b), 17 N.J.R. 1566(a). Further amendments became effective July 1, 1985 (operative July 1, 1985) as R.1985 d.341. See: 17 N.J.R. 880(a), 17 N.J.R. 1656(a). Further amendments became effective August 5, 1985 as R.1985 d.385. See: 17 N.J.R. 1045(a), 17 N.J.R. 1895(a). Further amendments became effective October 7, 1985 as R.1985 d.491. See: 17 N.J.R. 1523(a), 17 N.J.R. 2440(a). Further amendments became effective November 18, 1985 as R.1985 d.586. See: 17 N.J.R. 1835(a), 17 N.J.R. 2774(b).

Revisions for 1986: Revisions became effective January 21, 1986 (operative February 1, 1986) as R.1986 d.710. See: 17 N.J.R. 2518(a), 18 N.J.R. 191(a). Further amendments became effective March 3, 1986 as R.1986 d.54. See: 17 N.J.R. 2847(a), 18 N.J.R. 481(a). Emergency Amendment became effective March 27, 1986 (expires May 26, 1986) as R.1986 d.130. See: 18 N.J.R. 849(a). Further amend-

ments became effective April 7, 1986 (operative May 1, 1986) as R.1986 d.115. See: 18 N.J.R. 20(b), 18 N.J.R. 689(a). Further amendments became effective June 2, 1986 as R. 1986 d.203. See: 17 N.J.R. 2336(a), 18 N.J.R. 1200(b). Further amendments became effective August 4, 1986 as R.1986 d.318. See: 18 N.J.R. 1056(a), 18 N.J.R. 1595(a). Further amendments became effective December 1, 1986 as R.1986 d.471. See: 18 N.J.R. 260(a), 18 N.J.R. 2388(b). Further amendments became effective December 1, 1986 as R.1986 d.470. See: 18 N.J.R. 928(a), 18 N.J.R. 2388(a). Pursuant to Executive Order No. 66(1978), Chapter 82 was readopted as R.1989 d.497. See: 21 N.J.R. 1811(a), 21 N.J.R. 3014(a). All references to the Division of Welfare have been changed to the Division of Economic Assistance, effective December 4, 1989, pursuant to the provisions of P.L. 1989, c.88.

See section annotations for specific rulemaking activity. See new rule filed as R.1992 d.1, effective January 6, 1992, but operative July 1, 1992. See: 24 N.J.R. 101(a).

Chapter 82 was readopted as R.1994 d.430, effective July 25, 1994. See: Source and Effective Date.

Cross References

New Jersey Care, special Medicaid programs manual, scope, see N.J.A.C. 10:72-1.1.

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SUBCHAPTER 1. GENERAL PROVISIONS

10:82-1.1 Purpose of handbook

(a) This handbook is published as an integral part of the Public Assistance Manual and shall at all times be used and interpreted in conjunction with the manual.

(b) It is the purpose of this handbook to establish:

1. The public assistance allowances for eligible families and children;
2. Methods for evaluating the resources available to such persons;
3. Procedures for determining the amount of the assistance grant; and
4. The amount of and criteria for payments additionally allowable for recognized services and for emergency assistance.

Case Notes

Former regulations establishing Medical Assistance to the Aged program and income caps valid. *Devory v. Dept. of Human Services*, 175 N.J.Super. 413, 419 A.2d 1131 (App.Div.1980).

10:82-1.1A Standard of Need

New Jersey has established the following standards needed to maintain a safe and decent life. The Standard of Need specified below only serves as a benchmark set by the Commissioner, Department of Human Services, against which appropriations for funding the payment levels in the AFDC program may be determined.

Standard of Need	
Number in Family	Monthly Standard
1	\$ 410
2	\$ 819
3	\$ 985
4	\$1,127
5	\$1,260
6	\$1,386
7	\$1,505
8	\$1,617
more than 8	add \$112 each person

New Rule, R.1992 d.1, effective January 6, 1992 (operative July 1, 1992).
 See: 23 N.J.R. 285(a), 24 N.J.R. 101(a).

Law Review and Journal Commentaries

Welfare. Judith Nallin, 133 N.J.L.J. 48 (1993).

Case Notes

Standard for determining AFDC eligibility after receipt of lump sum income explained. *B.C. v. New Jersey Dept. of Human Services*, 263 N.J.Super. 225, 622 A.2d 903 (A.D.1993).

10:82-1.2 Income limits and assistance payment standards

(a) AFDC eligibility shall not exist for any month if the total income of the eligible unit exceeds the amount indicated in Schedule I for the appropriate eligible unit size. For this purpose, total income shall include all income of the eligible unit (without benefit of the disregards in N.J.A.C. 10:82-4.4 or 4.5) including the income of stepparents (exception: see (a)4 below concerning non-needy stepparents who marry an AFDC-C recipient parent on or after Octo-

ber 1, 1992) and alien sponsors determined available to the eligible unit in N.J.A.C. 10:82-2.9 and 3.13. Total income includes the earned income of the AFDC children except for earnings disregarded by provisions of N.J.A.C. 10:82-4.7(g). Child support payments, except for the first \$50.00 monthly current child support received on behalf of the eligible unit, whether received directly by the household or collected through the Child Support and Paternity (CSP) process, shall be counted in the determination of total income. See N.J.A.C. 10:82-2.13(f) for companion cases.

1. The AFDC grant shall not be considered as income for this purpose.
2. Funds exempted under N.J.A.C. 10:82-1.7 and 3.2(b)6 through 10 and monies disregarded under N.J.A.C. 10:82-4.6 shall not be considered income for this purpose.
3. Schedule I represents 185 percent of the State's Standard of Need set forth in N.J.A.C. 10:82-1.1A.

Schedule I

Maximum Income Levels

AFDC-C, -F and -N	Number in Eligible Unit
\$ 758	1
1,515	2
1,822	3
2,085	4
2,331	5
2,564	6
2,784	7
2,991	8
Add \$207 each additional person	More than 8

4. The provisions in this paragraph do not apply to AFDC families who have been randomly assigned to a control group for purposes of evaluation requirements pertaining to Federally approved waivers. If a natural or adoptive AFDC-C recipient parent marries a non-needy individual who is not the natural or adoptive parent of one or more of the recipient parent's children on or after October 1, 1992, the stepparent, the stepparent's natural or adoptive children and the AFDC-C recipient parent shall be excluded from the eligible unit. Eligibility for the AFDC children shall be established in accordance with the regulations at N.J.A.C. 10:82-2.10 and Schedule VII, Maximum Income Limits for Non-Needy Stepparents Marrying AFDC-C Recipient Parents on or after October 1, 1992.

(b) AFDC assistance payment standards are set forth in Schedules II and III below. The payment standards are established for the eligible family unit according to the number of persons in the eligible unit.

Payment Standards

Schedule II AFDC-C, -F and -N	Number in Eligible Unit	Schedule III Maximum Payment AFDC-C, -F and -N
\$185	1	162
369	2	322
443	3	424
507	4	488
567	5	552
624	6	616
677	7	677
728	8	728
Add \$50.00 each additional person	More than 8	Add \$50.00 each additional person

(c) Countable income sources (both earned or unearned) of an eligible family shall be subtracted from the payment standard for the eligible family size set forth in Schedule II. However, unemployment insurance benefits as a source of income shall be handled as delineated in (g) below.

1. Schedule II payment standards represent a ratable reduction of 45 percent of the State's Standard of Need set forth at N.J.A.C. 10:82-1.1A for the eligible family unit size.

(d) The payment standards in Schedule III are maximum payment standards based on family size. Schedule III maximum payment standards are a function of available funding.

(e) When an eligible family has no other countable income source for AFDC purposes, Schedule III payment standards are used to determine the assistance benefit for the eligible family members.

(f) After the subtraction of countable income from the Schedule II payment standard, the income maintenance worker shall compare the remainder after subtraction to the maximum payment standard for the eligible unit size in Schedule III. The eligible family shall receive an assistance payment which is the lesser of the remainder after subtraction from Schedule II or the Schedule III maximum payment amount for the eligible family size.

(g) Unemployment insurance compensation benefits (UIB) are subtracted last in all assistance payment determinations.

1. If the eligible family has other countable income, the UIB benefits of any member of the eligible family, including the principal earner, shall be deducted from the lesser of either the remainder after subtraction from Schedule II or the Schedule III maximum payment amount for the eligible family size, as the last step in the determination of the monthly assistance payment.

2. If the eligible family has no other countable income except for UIB, and the principal earner is the UIB beneficiary, then the UIB is deducted from the Schedule III payment standard for the eligible family size. The remaining amount after subtraction of the UIB is the family's monthly assistance payment.

3. If the eligible family has no other countable income except for UIB and the UIB beneficiary is any other member of the eligible family except for the principal wage earner, then the UIB is deducted, as any other unearned income, from Schedule II. The assistance payment is the lesser of the remainder after subtraction from Schedule II or the Schedule III maximum payment amount for the eligible family size.

Amended by R.1978 d.229, effective July 10, 1978.

See: 10 N.J.R. 254(a), 10 N.J.R. 346(b).

Amended by R.1979 d.256, effective July 1, 1979.

See: 11 N.J.R. 282(a), 11 N.J.R. 382(a).

Amended by R.1980 d.294, effective July 1, 1980.

See: 12 N.J.R. 481(b).

Amended to implement a seven percent increase in the AFDC allowance standards. As amended on an emergency basis, R.1981 d.396, eff. September 30, 1981, exp. November 30, 1981.

Readopted, R.1981 d.519, eff. December 31, 1981.

See: 13 N.J.R. 763(a), 14 N.J.R. 102(d).

(d) added.

As amended, R.1982 d.443, eff. December 20, 1982.

See: 14 N.J.R. 952(a), 14 N.J.R. 1459(b).

Clarified which income is counted and not counted in the determination of maximum income eligibility.

As amended, R.1983 d.318, eff. July 20, 1983.

See: 15 N.J.R. 935(a), 15 N.J.R. 1377(a).

Internal cite deleted.

As amended R.1984 d.242, eff. June 18, 1984 (operative July 1, 1984).

See: 16 N.J.R. 829(a), 16 N.J.R. 1607(a).

Section amended substantially.

As amended as emergency adoption, R.1984 d.463, eff. September 28, 1984 (operative October 1, 1984).

See: 16 N.J.R. 2837(a).

Section substantially amended in (d) and Schedule III.

Readopted, R.1984 d.568, eff. November 28, 1984.

See: 16 N.J.R. 2837(a), 16 N.J.R. 3442(a).

Originally filed as emergency rule R.1984 d.463.

Amended by R.1985 d.341, effective July 1, 1985 (operative July 1, 1985).

See: 17 N.J.R. 880(a), 17 N.J.R. 1656(a).

Public Assistance Standards and Schedule III allowances raised.

Public Notice: Comments to adoptions cited in 17 N.J.R. 1656(a).

See: 17 N.J.R. 2272(a).

Public Notice: Petition for rulemaking on behalf of recipients of assistance from AFDC.

See: 18 N.J.R. 1205(d).

Public Notice: Petition for rulemaking establishing a standard of need and raising public assistance benefits in the AFDC and GA programs.

See: 18 N.J.R. 1622(b).

Amended by R.1987 d.252, effective June 15, 1987.

See: 19 N.J.R. 500(a), 19 N.J.R. 1094(a).

Amended schedules for Public Assistance Standards and Schedule III.

Public Hearing: To include testimony on issues governing the adequacy of the increase in the amended regulations in light of the current cost of living in New Jersey and the relationship of that increase to an adequate standard of need for AFDC and GA recipients.

See: 19 N.J.R. 1658(b).

Repeal and New Rule, R.1992 d.261, effective June 15, 1992 (operative July 1, 1992).

See: 24 N.J.R. 1194(a), 24 N.J.R. 2258(a).

Text was formerly "Schedules of Allowances."

Prior rulemaking activity is as follows:

Amended by R.1992 d.367, effective September 21, 1992 (operative October 1, 1992).

See: 24 N.J.R. 2155(a), 24 N.J.R. 3352(a).

Exception provided for cases of marriage to a non-needy stepparent.

Case Notes

Standard of need to determine eligibility for AFDC and General Assistance, must be based upon actual cost of living within state. Matter of Petitions For Rulemaking N.J.A.C. 10:82-1.2 and 10:85-4.1, 223 N.J. Super. 453, 538 A.2d 1302 (A.D.1988), certification granted 111 N.J. 638, 546 A.2d 550, affirmed 117 N.J. 311, 566 A.2d 1154.

Department has wide discretion in formulating standard of need. Matter of Rulemaking, N.J.A.C. 10:82-1.2 and 10:85-4.1, 117 N.J. 311, 566 A.2d 1154 (1989).

Department must establish what level of benefits would maintain AFDC and general assistance recipients in the measure of dignity that the enabling legislation requires. Matter of Rulemaking, N.J.A.C. 10:82-1.2 and 10:85-4.1, 117 N.J. 311, 566 A.2d 1154 (1989).

Congress requires states to set forth difference between what people need and what they get and to establish a "standard of need" for AFDC eligibility. Matter of Rulemaking, N.J.A.C. 10:82-1.2 and 10:85-4.1, 117 N.J. 311, 566 A.2d 1154 (1989).

Initial eligibility for AFDC grant must be determined on all income available at any time during the month the application was received (Director's Final Decision). In the Matter of P.B., 8 N.J.A.R. 329 (1980).

10:82-1.3 Eligible unit; all segments

(a) The eligible unit shall be comprised of those family members who apply for and are eligible to receive public assistance. It shall include one or more eligible children unless such child is a recipient of SSI benefits.

1. The eligible unit for AFDC-C or -F shall include any blood-related or adoptive brothers and/or sisters living in the same household and who are otherwise eligible for AFDC-C or -F. This requirement does not apply to stepbrothers and stepsisters, in circumstances in which assistance is sought for -N segment children only, or to a child(ren) excluded in accordance with N.J.A.C. 10:82-1.11, unless the family has been randomly assigned to a control group for purposes of evaluation.

2. A stepparent of the children for whom assistance is sought may be included in the eligible unit if the provisions of N.J.A.C. 10:82-2.9 apply. If the non-needy stepparent marries the AFDC-C recipient parent on or after October 1, 1992 and the provisions of N.J.A.C. 10:82-2.10 apply, the stepparent and his or her natural or adoptive children, as well as the natural or adoptive AFDC-C recipient parent shall be excluded from the eligible unit, unless the family has been randomly assigned to a control group for purposes of evaluation.

(b) When a recipient of SSI payments is a family member, he/she shall not be included in the eligible unit.

1. When all eligibility factors are present in a family of two or more people, the individuals not receiving SSI benefits shall comprise the eligible unit. This applies to a parent as well as to a child.

(c) An individual who incurs a penalty of ineligibility shall not be included in the eligible unit (see N.J.A.C. 10:82-2.4).

(d) The eligible unit shall include the parent(s) and/or needy parent-person(s) with whom the eligible children live,

unless such parent has incurred a penalty of ineligibility (see N.J.A.C. 10:82-2.4), is an SSI recipient, is an illegal alien (see N.J.A.C. 10:81-3.9(c)) or, unless the family has been randomly assigned to a control group for purposes of evaluation, is an AFDC-C recipient parent who marries on or after October 1, 1992 and is excluded from AFDC eligibility in accordance with the provisions of N.J.A.C. 10:82-2.10.

As amended, R.1974 d.205, eff. July 24, 1974.

See: 6 N.J.R. 243(b), 6 N.J.R. 312(b).

As amended, R.1976 d.27, eff. February 1, 1976.

See: 7 N.J.R. 567(a), 8 N.J.R. 124(a).

As amended, R.1978 d.157, eff. June 1, 1978.

See: 10 N.J.R. 113(a), 10 N.J.R. 255(b).

As amended, R.1983 d.318, eff. July 20, 1983.

See: 15 N.J.R. 935(a), 15 N.J.R. 1377(a).

Internal cite corrected to reflect recodification.

As amended as emergency adoption, R.1984 d.463, eff. September 28, 1984 (operative October 1, 1984).

See: 16 N.J.R. 2837(a).

(a)1 added.

Readopted, R.1984 d.568, eff. November 28, 1984, (amendment eff. December 16, 1984).

See: 16 N.J.R. 2837(a), 16 N.J.R. 3442(a).

Was previously filed as emergency rule R.1984 d.463.

(a) substantially amended.

Amended by R.1992 d.367, effective September 21, 1992 (Operative October 1, 1992).

See: 24 N.J.R. 2155(a), 24 N.J.R. 3352(a).

Added exclusion of non-needy stepparent and family.

Case Notes

Live-in boyfriend's unemployment insurance benefits were not income for mother and her child. Passaic County Board of Social Services v. M.H., 93 N.J.A.R.2d (DEA) 37.

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.

10:82-1.4 Eligible unit; AFDC-C and -F segments

(a) The AFDC-C segment shall include:

1. The natural or adoptive parent(s) of one or more of the eligible child(ren) unless the AFDC-C recipient parent marries on or after October 1, 1992 and is excluded from AFDC eligibility in accordance with the provisions of N.J.A.C. 10:82-2.10 (the provisions of N.J.A.C. 10:82-2.10 do not apply if the family has been randomly assigned to a control group for purposes of evaluation);

2. The stepparent (the spouse of a natural or adoptive parent) of the children for whom assistance is sought may be included in the eligible unit if the provisions of N.J.A.C. 10:82-2.9 apply. If a non-needy stepparent marries the AFDC-C recipient parent on or after October 1, 1992 and the provisions of N.J.A.C. 10:82-2.10 apply, the stepparent, the stepparent's natural or adoptive children as well as the natural or adoptive parent of the AFDC-C recipient children are excluded from the eligible unit, unless the family has been randomly assigned to a control group for purposes of evaluation;

3. An enumerated parent-person and his/her spouse, when such individuals claim to be financially eligible;

4. When the child(ren) lives with a parent-person who is not him/herself applying for assistance and a natural or adoptive parent is not in the home, only the eligible child(ren) comprises the eligible unit.

(b) The AFDC-F segment shall include the natural or adoptive parents with whom the eligible child(ren) lives when both parents are in the home, are not incapacitated and the parent who is the principal earner meets the Federal definition of unemployment as set forth in PAM.

(c) A child not meeting AFDC age requirements is not eligible for AFDC-C or -F and shall not be included in the eligible unit. For determination of Medicaid eligibility for such children under the age of 21, see N.J.A.C. 10:82-2.11.

(d) Unless the family has been randomly assigned to a control group for purposes of evaluation, a child born to an AFDC-C, -F or -N family in accordance with the provisions of N.J.A.C. 10:82-1.11 shall not be included in the eligible unit. (See N.J.A.C. 10:82-2.11(g) concerning Medicaid eligibility.)

(e) When an applicant for AFDC-C must wait for incapacity to be established and is in immediate need, eligibility shall be considered for AFDC-F or -N.

(f) When it is necessary to identify the allowance for an individual member of the eligible unit, such as when this information is required by a court order for support, his/her per capita share of the eligible unit's public assistance allowance is determined from the Per Capita Table following N.J.A.C. 10:82-2.13.

As amended, R.1978 d.157, effective June 1, 1978.

See: 10 N.J.R. 113(a), 10 N.J.R. 255(b).

As amended, R.1980 d.120, effective March 19, 1980.

See: 12 N.J.R. 28(a), 12 N.J.R. 194(e).

(e): Added cross-reference to N.J.A.C. 10:81-3.41(a)2i.

As amended, on an emergency basis, R.1981 d.396, effective September 30, 1981, exp. November 30, 1981.

See: 13 N.J.R. 763(a).

Readopted, R.1981 d.519, effective December 31, 1981.

See: 13 N.J.R. 763(a), 14 N.J.R. 102(d).

(a)1: "except . . . N.J.A.C. 10:82-2.9(d)" deleted.

(b): "parent who . . . earner" substituted for "father".

As amended, R.1982 d.443, effective December 20, 1982.

See: 14 N.J.R. 952(a), 14 N.J.R. 1459(b).

Changed language concerning age requirements.

As amended, R.1983 d.318, effective July 20, 1983.

See: 15 N.J.R. 935(a), 15 N.J.R. 1377(a).

Two internal cites deleted.

Amended by R.1992 d.367, effective September 21, 1992 (Operative October 1, 1992).

See: 24 N.J.R. 2155(a), 24 N.J.R. 3352(a).

Added exclusion of non-needy stepparent; added (d), on ineligible children.

10:82-1.5 Eligible unit; AFDC-N segment

(a) The eligible unit shall include the two natural or adoptive parents and their eligible children under 18 years of age and any child age 18 if a full-time student in a secondary school, or in the equivalent level of vocational or technical training, and reasonably expected to complete the program before reaching age 19. If one parent has children of his or her own living in the home, the following shall apply.

1. When a parent has children of his/her own, this parent, this parent's spouse and this parent's child(ren) may be eligible for the AFDC-C segment. The needs of the remaining eligible members of the unit shall be met according to -N segment standards. (See N.J.A.C. 10:82-2.13 for budgeting companion cases.)

2. The same potential for eligibility under the AFDC-C segment may apply to each parent in his/her own right, in which event only their joint children shall be -N segment eligibles.

(b) Unless the family has been randomly assigned to a control group for purposes of evaluation, any child(ren) to whom the provisions of N.J.A.C. 10:82-1.11 apply shall not be included in the eligible unit for purposes of AFDC cash assistance only.

(c) A child not meeting program age requirements is not eligible for AFDC-N and shall not be included in the eligible unit. See N.J.A.C. 10:81-8.22 through 8.25 for possible Medicaid eligibility.

As amended, R.1978 d.191, effective June 8, 1978.

See: 10 N.J.R. 286(b).

As amended, R.1982 d.443, effective December 20, 1982.

See: 14 N.J.R. 952(a), 14 N.J.R. 1459(b).

The proposal codified the Federal and State statutory requirement that Aid to Families of Dependent Children be limited to children under the age of 18 or age 18 if reasonably expected to complete secondary school prior to attaining age 19.

Amended by R.1992 d.367, effective September 21, 1992 (Operative October 1, 1992).

See: 24 N.J.R. 2155(a), 24 N.J.R. 3352(a).

Added new (b), excluding certain newborn children.

Cross References

Verification of School Attendance, see N.J.A.C. 10:81-2.17.

10:82-1.6 Eligible person temporarily in an institution

(a) A member of the eligible unit who is temporarily in an institution in accordance with N.J.A.C. 10:81-3.33 shall continue to be regarded as an eligible member of that unit.

1. When the absence of an -N segment parent will continue for 30 days or longer, the remaining members of the family may be eligible for AFDC-C.

(b) In situation where such institutional care continues for a period of 30 days or more (disregarding any interruptions for "visits home" by the day or weekend), an adjustment to accommodate to this absence must be made in the computation of the family's assistance grant. For this purpose, enter as "other income" on the PA-3A form: \$25.00 in AFDC-C, -F and -N cases.

Amended by R.1980 d.79, effective April 1, 1980.

See: 11 N.J.R. 555(a), 12 N.J.R. 126(d).

(a): Amended cross-references and text to conform to amendments to N.J.A.C. 10:81-3.33.

(a)1: 30 days or longer was at least one calendar month.

(c) Previous text covered involuntary institutionalization of a child.

Amended by R.1991 d.7, effective January 7, 1991.

See: 22 N.J.R. 2445(a), 23 N.J.R. 93(a).

Deleted "(c)" regarding Job Corps Center training.
Amended by R.1992 d.261, effective June 15, 1992 (operative July 1, 1992).

See: 24 N.J.R. 1194(a), 24 N.J.R. 2258(a).

In (a)1 and (b): revised text to "30 days" from "80 days."
In (b): added "\$25.00 in AFDC-C, -F and -N cases", deleting existing (b)1 and 2 with former amounts.

10:82-1.7 Eligible AFDC child regularly attending school or in vocational training at a Residential Job Corps Center

(a) When an eligible child is a student regularly attending school, college or university, or regularly attending a course of vocational training designed to fit him/her for gainful employment, this child shall be included as a member of the eligible unit whether or not he/she is living in the home during the period in which he/she is pursuing his/her studies. (See N.J.A.C. 10:82-1.9 for definitions of school attendance.)

(b) Any grant, scholarship, student loan or other financial aid received by such child shall be fully disregarded in determining eligibility and amount of assistance payment so long as the child continues to attend school as stated in (a) above and meets the conditions under which such moneys are granted.

1. Funds received through college work-study programs shall be disregarded.

(c) During any period for which a child receives a grant, scholarship or student loan under a Federal, State or other public or private program, he or she shall not be entitled to any allowances for expenses incident to training which are otherwise provided for through student financial aid. In other situations, allowances shall be provided in accordance with the provisions of N.J.A.C. 10:81-14.19.

(d) When a child receives vocational training at a Residential Job Corps Center which permits him or her to return home for weekends, the child shall be considered temporarily absent and regarded as an eligible member of the family unit. (A child receiving training at one of the three National Job Corps Centers located in Kentucky, Indiana, and Utah is to be considered permanently absent and shall not be considered a member of the eligible family for AFDC eligibility.)

(e) If the student is in fact living apart from the eligible unit and is receiving all expenses for room and board from other sources, an adjustment to accommodate for this absence must be made in computing the family's grant. For this purpose, the amount of \$25.00 per month for AFDC-C, -F and -N children shall be entered as "other income" on the PA-3A form.

Amended by R.1978 d.191, effective June 8, 1978.

See: 10 N.J.R. 286(b).

Amended by R.1979 d.232, effective August 1, 1979.

See: 11 N.J.R. 183(b), 11 N.J.R. 346(c).

Amended by R.1979 d.424, effective November 1, 1979.

See: 11 N.J.R. 447(b), 11 N.J.R. 560(a).

Amended by R.1982 d.443, effective December 20, 1982.

See: 14 N.J.R. 952(a), 14 N.J.R. 1459(b).

Clarified the treatment of scholarships, educational grants, and student loans. Correlation: Deleted "over 18 and under 21" from (a).
See: 17 N.J.R. 2917(a).

Amended by R.1987 d.330, effective August 17, 1987.

See: 19 N.J.R. 709(a), 19 N.J.R. 1559(c).

Added text to (b), "scholarship", "other financial aid". Deleted "Student loans from . . ."

Amended by R.1991 d.7, effective January 7, 1991.

See: 22 N.J.R. 2445(a), 23 N.J.R. 93(a).

In (c): added text referring to allowances provided for through student financial aid.

Added new subsection (d).

Amended by R.1992 d.261, effective June 15, 1992 (operative July 1, 1992).

See: 24 N.J.R. 1194(a), 24 N.J.R. 2258(a).

In (e), added N-segment; deleted text which contained \$17.00 monthly amount for N-segment.

Case Notes

Contribution funds accumulated under provisions of the Post-Vietnam Era Veterans Education Assistance Program were not an educational grant or loan and must be liquidated as a nonexempt resource before becoming AFDC eligible. *L.D. v. Passaic Cty. Bd. of Social Services*, 7 N.J.A.R. 309 (1984).

Institutional stipend received by AFDC program parent enrolled in school should be disregarded in computation of AFDC grant, as stipend is not used to defray living expenses. In re: *P.S.*, 4 N.J.A.R. 230 (1979).

10:82-1.8 Parent regularly attending school (all segments)

(a) When a parent of an eligible child is a student regularly attending school as defined in N.J.A.C. 10:82-1.9, the provisions of N.J.A.C. 10:82-1.7(b) and (c) shall apply. The parent shall be considered a REACH participant subject to the rules set forth at N.J.A.C. 10:81-14.

1. Payment for child care shall be provided where necessary to enable a parent to attend school so long as the parent can demonstrate that his or her scholarship(s), grant(s), student loan or other financial aid does not provide moneys which are to be utilized for such care, and child care is not provided from or through the educational institution or through any other source (see N.J.A.C. 10:82-5.3 and 10:81-1.10 and 14.18).

Amended by R.1979 d.232, effective August 1, 1979.

See: 11 N.J.R. 183(b), 11 N.J.R. 346(c).

Amended by R.1986 d.471, effective December 1, 1986.

See: 18 N.J.R. 260(a), 18 N.J.R. 2388(a).

Amended by R.1987 d.330, effective August 17, 1987.

See: 19 N.J.R. 709(a), 19 N.J.R. 1559(c).

Deleted text in (a)1 "When the scholarship . . ."; added "student loan or other financial aid".

Amended by R.1991 d.7, effective January 7, 1991.

See: 22 N.J.R. 2445(a), 23 N.J.R. 93(a).

In (a): deleted N.J.A.C. reference and added text referring to N.J.A.C. 10:81-14.

In (a)1: added text regarding the educational institution and N.J.A.C. citations.

Case Notes

Contribution funds accumulated under provisions of the Post-Vietnam Era Veterans Education Assistance Program were not an educational grant or loan and must be liquidated as a nonexempt resource

before becoming AFDC eligible. *L.D. v. Passaic Cty. Bd. of Social Services*, 7 N.J.A.R. 309 (1984).

Institutional stipend received by AFDC program parent enrolled in school should be disregarded in computation of AFDC grant, as stipend is not used to defray living expenses. In re: P.S., 4 N.J.A.R. 230 (1979).

Essex County Division of Welfare v. "P.A.", 2 N.J.A.R. 23 (1979).

10:82-1.9 School attendance defined

(a) A child eligible under the age requirements of N.J.A.C. 10:81-3.13(a) shall be considered a student regularly attending a school or training course when he or she is enrolled in and physically attending, as certified by the school or institute, a program of study or training leading to a certificate, diploma or degree:

1. Full time; or
2. At least half time and is regularly employed part time or is available for and actively seeking part-time employment; or
3. At least half time and is precluded from full-time attendance or part-time employment because of a verified physical disability.

(b) Full-time and half-time attendance are defined as:

1. In a trade or technical school, in a program involving shop practice, full time is 30 clock hours per week and half time is 15 clock hours; in a program without shop practice, full time is 25 clock hours and half time is 12 clock hours;
2. In a college or university, full time is 12 semester or quarter hours and half time is eight semester or quarter hours;
3. In a secondary school, full time is 25 clock hours per week or four Carnegie units per year, and half time is 12 clock hours or two Carnegie units;
4. In a secondary education program of cooperative training or in apprenticeship training, full-time attendance is defined by State Department of Education.

(c) A child shall be considered in regular attendance in months in which he or she is not attending because of official school or training program, vacation, illness, convalescence or family emergency, and for the month in which he or she begins, completes or discontinues his or her school or training program.

Amended by R.1986 d.471, effective December 1, 1986.
See: 18 N.J.R. 260(a), 18 N.J.R. 2388(b).
Amended by R.1994 d.430, effective August 15, 1994.
See: 26 N.J.R. 1584(a), 26 N.J.R. 3483(a).

10:82-1.10 Prospective budgeting

(a) Eligibility and the amount of the assistance payment for all AFDC applicants and recipients shall be determined using prospective budgeting methodology.

1. Prospective budgeting policy shall be applied to recipients of Medicaid benefits, including AFDC-related Medicaid and Medicaid Special.

(b) AFDC eligibility and benefit calculations shall be based on a best estimate of the family's income and other circumstances that will exist until the next reported significant change in circumstance or redetermination, whichever is first. The best estimate of income is based on the family's and the agency's reasonable expectations and knowledge of current, past, and future circumstances. In determining the best estimate of income, the CWA shall use income averaging and the concept of "significant and non-significant" income and circumstance changes. Verification of the income used must be clearly documented in the case record.

1. For purposes of determining the family's eligibility and benefits, the CWA shall determine earnings by obtaining wage information for the four consecutive week period immediately preceding the date of application, redetermination, or change in circumstance. Likewise, all unearned income received within this four week period is also determined. All earned and unearned income received within this four week period must be verified and documented in the case record, even if all four weeks of income are not ultimately used to calculate the best estimate.

2. In order to maintain consistency in policy application between the AFDC and Food Stamp (FS) programs, the CWA shall utilize the same income estimate for both the AFDC application/redetermination period and the Food Stamp application/recertification period, whenever possible. Therefore, in those public assistance (PA)/FS cases where the Food Stamp calculation encompasses a five-paycheck (or a three paycheck month for bi-weekly income) month, CWAs are authorized to use that same estimate for AFDC if it is also representative for AFDC best estimate purposes. Documentation of the best estimate determination must be in the case record.

3. The payment schedule of receipt of income by an AFDC individual occurs weekly, biweekly, or on a semi-monthly basis. The CWA shall convert the average income amount to a gross monthly amount by multiplying the averaged income amount by the appropriate conversion factor as follows: weekly amounts by 4.333; biweekly amounts by 2.167; and semi-monthly amounts by two.

(c) Significant income and circumstance changes are defined as changes in sources or amounts of earned or unearned income or changes to the eligible unit size which are expected to continue into the future. Examples of significant changes include, but are not limited to: starting a new job or gaining a new source of unearned income; losing a job or a source of unearned income; permanent or long term changes in hours worked and/or rate of pay; permanent or long term changes in unearned income; changing from part-time to full-time employment (or vice versa); promotion or demotion; beginning to work piece work or regular overtime (or vice versa); changing employers; short term plant closings (such as one or more weeks) or periods of sick leave without compensation (more than one day); or addition of or loss of an eligible family member.

1. The CWA shall use information about past significant changes of a continuous nature in estimating future income. The date of an anticipated significant income/circumstance change may be used to schedule a desk review to coincide with the expected date of the change, in order to recalculate the best estimate of income.

2. Families shall be required to report all significant changes in income and circumstances that could affect eligibility and grant amount as soon as possible, but in no event later than 10 calendar days of the date the change happened. The CWA shall initiate appropriate action on the reported change within 10 calendar days of receiving the report of the change, subject to timely and/or adequate notice requirements.

(d) Non-significant income/circumstance changes are defined as temporary, very short term variations in the earned or unearned income amount or eligible unit size caused by a situation which is not of an ongoing nature, or which is of a variable nature. Examples include, but are not limited to: fluctuations in wages due to ongoing (reported) earnings from piece work; occasional changes in wages due to very irregular overtime; or an occasional unpaid day off.

(e) The following procedures are to be followed in determining the best estimate of income.

1. Verification through wage stubs or documentation from the employer, of income received within the specified timeframe in (b) above. All earned and unearned income received within this four week period must be verified and documented in the case record even if all four weeks of income are not ultimately used to calculate the best estimate.

2. Determination, through a review of the income documentation and discussion with the family, if there have been any significant changes during that period. If a significant change has occurred and the change is of a continuous nature, the change must be documented and taken into consideration when determining the best estimate. For example, if a family has received an increase in hourly rate, the new hourly rate must be multiplied by the appropriate number of hours (either stable or averaged) to determine anticipated income.

3. Determination if any significant changes are expected in the future. If a significant change is expected and the exact nature of the change is known, the CWA shall use the information in determining the best estimate of income and shall require that the family provide the required verification subsequent to the change to determine if the best estimate was correct or needs to be recalculated. If the exact nature of the anticipated change is not known, then a desk review can be scheduled to coincide with the expected date of change and/or the client advised to report the change within 10 days of the date of change.

4. Determination, through review of the documentation, the case record and discussion with the client, if any of the income received is not expected to be representative of the future. For instance, the first pay check of new employment may not represent a full-pay period; a missing week's income may represent a summer plant closing; or a larger check may represent nonrecurring overtime, all of which may not be anticipated to occur in the future. Non-representative income (or lack of income) shall not be used in calculating the best estimate. The case record must be clearly documented to explain why any income was not used, and to show how the best estimate was calculated. For example, the family receives regular weekly income but is missing one week's pay due to a plant closing for that week only. The three available amounts would be averaged to determine average weekly income and that average converted to monthly gross income as described in (b)2 above.

5. If income fluctuates (that is, is not exactly the same each time received and/or is not received on a regular schedule) to the extent that a four-week period is not expected to provide the best estimate of income until the next redetermination, the CWA shall require the family to submit verified wage information for those months subsequent to the month of review, in order that the CWA may recalculate the best estimate. When income fluctuates dramatically, the CWAs shall rebudget the case as often as deemed necessary to ensure the most accurate best estimate and correct assistance payment.

i. When four consecutive weeks of income fluctuate but are representative of the family's anticipated fluctuation in income for future months, the CWA shall average the income from the four-week period and project that gross income estimate for future months, taking into account any anticipated significant changes.

6. The final step shall be to average the income that has been determined to be representative of the eligible family's circumstances and to convert that average to a gross monthly income "best estimate" amount by using the conversion factors set forth in (b)2 above. The best estimate amount shall then be used to determine eligibility until the next redetermination or report of a significant change.

(f) If there are no significant changes in circumstances, a new best estimate of income shall, at a minimum, be completed at the time of the next redetermination of eligibility.

1. When non-significant changes are reported, it shall not be necessary to redetermine eligibility immediately. Non-significant changes shall, however, be taken into consideration when determining the best estimate of income at the next regularly scheduled redetermination. When such changes are reported, the case record must be clearly documented to show that the change was non-significant.

2. A significant change in circumstances of the eligible family may result in an adjustment upward or downward in the amount of the assistance payment. Unless (i) below applies, the adjustment must be effective no later than the first day of the month following the month in which the significant change in circumstance occurred, or 10 business days after the change is reported to the CWA, whichever is later. Downward adjustments shall be subject to timely and adequate notice.

i. Under certain circumstances which in the judgment of the CWA would otherwise result in undue hardship to the eligible family, a supplemental payment to the last regular benefit payment shall be issued during the current payment period for the reasons stated at N.J.A.C. 10:82-2.20.

ii. Any supplemental payment to an eligible family for the reason of undue hardship shall be subject to proration based on the date of the change.

New Rule R.1985 d.710, effective January 21, 1986 (operative February 1, 1986).

See: 17 N.J.R. 2518(a), 18 N.J.R. 191(a).

Repeal and New Rule, R.1992 d.261, effective June 15, 1992 (operative July 1, 1992).

See: 24 N.J.R. 1194(a), 24 N.J.R. 2258(a).

Section was "Retrospective Budgeting".

Case Notes

Reasonable basis existed for use of income multiplier to determine eligibility under Medical Assistance and Health Service Act. *P.P. v. New Jersey Dept. of Human Services, Div. of Medical Assistance and Health Services*, 280 N.J.Super. 1, 654 A.2d 471 (A.D.1994), certification denied.

10:82-1.11 AFDC eligible family on assistance on or after October 1, 1992 with newborn child(ren)

(a) The provisions in this section do not apply to AFDC families who have been randomly assigned to a control group for purposes of evaluation requirements pertaining to Federally approved waivers. Adult AFDC recipient parents shall not be entitled to incrementally increased AFDC benefits as a result of the birth of a child(ren). Any such child(ren) shall be excluded from the eligible unit, for cash assistance purposes only, until the requirement in (c) below applies. This provision is applicable to adults who have been in receipt of AFDC cash benefits for a period of one or more calendar months within 10 consecutive calendar months immediately preceding the birth of a child. This 10-month timeframe is inclusive of any periods of ineligibility or case closure, either initiated on the part of the recipient or imposed by the county welfare agency including the post-AFDC benefit period for REACH/JOBS or FDP participation.

1. For families in receipt of assistance on October 1, 1992, a child born to the AFDC adult recipient on or after August 1, 1993 shall not be included in the eligible unit for the provision of AFDC cash assistance only, in accordance with (a) above.

2. For families who apply for AFDC benefits on or after October 1, 1992, the 10-month timeframe specified in (a) above shall be applied from the date of application. For example, if the date of application is November 12, 1992 and the case was determined eligible for benefits, any child born to that adult recipient on or after September 12, 1993 shall not be included in the eligible unit for the provision of AFDC cash assistance only, in accordance with (a) above.

3. Any child excluded from the AFDC eligible unit in accordance with the provisions of (a) above shall be categorically eligible for Medicaid benefits.

(b) Beginning October 1, 1992, the 10-month timeframe addressed in (a) above shall be binding upon any family for any subsequent reapplications or reopenings of the case and a family shall not be entitled to an increased benefit allowance for the birth of any child(ren) until such time as (c) below applies.

1. Any child included in the AFDC eligible unit who subsequently becomes a parent-minor and either establishes his or her own separate AFDC eligible unit or remains in the eligible unit of the parent or caretaker relative shall be entitled to the 10-month timeframe specified in (a) above from the date of the birth of the parent-minor's first child. The parent-minor's first newborn child shall, therefore, be entitled to AFDC cash assistance.

(c) Beginning October 1, 1992, when an adult parent(s) reapplies for AFDC benefits and no member of the eligible unit has been in receipt of AFDC-C, -F or -N benefits for a minimum of 12 consecutive months immediately preceding the date of application, that family is eligible for a new 10-month grace period from the date of reapplication. In such situation, any child(ren) previously excluded from the eligible unit in accordance with (a) above shall now be included in the eligible unit for cash assistance purposes.

1. When an AFDC-C, -F or -N family becomes ineligible for AFDC for any of the reasons listed in (c)1i through iii below, remains employed for a minimum of 90 days, and subsequently reapplies for AFDC prior to expiration of the 12 consecutive month period in (c) above due to the loss of employment through no fault of their own, any child(ren) previously excluded from the eligible unit in accordance with (a) above shall now be included in the eligible unit for cash assistance purposes. Such families, however, are not entitled to a new 10-month grace period and any child(ren) born subsequent to the reapplication shall not be included in the eligible unit as set forth in (b) above.

i. Earnings or increased earnings from employment, including earnings from new employment;

ii. Loss of the \$30.00 or one-third disregards of earned income (see N.J.A.C. 10:82-4) because of the time-limited application of those disregards; or

iii. Increased hours of employment.

(d) AFDC adult recipient parents whose child(ren) is excluded from the eligible unit in accordance with (a) above, shall have deducted from the monthly earned income of each employed person in that family the additional State earned income disregard specified in N.J.A.C. 10:82-2.8(c).

New Rule R.1985 d.710, effective January 21, 1986 (operative February 1, 1986).

See: 17 N.J.R. 2518(a), 18 N.J.R. 191(a).

Amended by R.1989 d.497, effective September 18, 1989.

See: 21 N.J.R. 1811(a), 21 N.J.R. 3014(a).

Bimonthly reporting requirement deleted.

Repealed by R.1992 d.261, effective June 15, 1992 (operative July 1, 1992).

See: 24 N.J.R. 1194(a), 24 N.J.R. 2258(a).

Section was "Monthly Reporting"; now reserved.

New Rule, R.1992 d.367, effective September 21, 1992 (operative October 1, 1992).

See: 24 N.J.R. 2155(a), 24 N.J.R. 3352(a).

SUBCHAPTER 2. PROCEDURES FOR DETERMINING AMOUNT OF MONTHLY GRANT

10:82-2.1 Form PA-3A or Form 105

(a) To determine the monthly assistance payment, Form PA-3A, Worksheet and Authorization for Public Assistance, or Form 105, the computer (FAMIS) input form, as appropriate, shall be prepared for each eligible family. (See Family Assistance Management Information System (FAMIS) Manual for preparation of Form 105.) All information supporting the data on Form PA-3A or Form 105 shall be included in the agency's case record.

(b) Form PA-3A shall be completed in the following order:

1. Part I: All members of the eligible unit must be listed in Part I, followed by the appropriate information:

i. Under the heading CHECK, the appropriate segment column will be checked for each eligible person;

ii. The total number of adults and children eligible for each segment shall be recorded in the "recipient count" box in the upper right-hand corner of the PA-3A;

iii. In companion cases, all eligible persons shall be listed on a single PA-3A (see N.J.A.C. 10:82-2.13);

iv. Under "Categorically Related", list those persons not in the eligible unit who are eligible for Medicaid.

2. Part VI: For all new applications, Part VI, Determination of Initial Eligibility, must be completed first, in accordance with N.J.A.C. 10:82-2.7.

3. Part V: When one or more members of the eligible unit have earned income, compute the calculated earned income in Part V. See N.J.A.C. 10:82-2.8 for methods for determining calculated earned income.

4. Part II: The amount of the regular monthly grant is determined in Part II, Amount of Allowance. Make the appropriate entries according to key numbers indicated on the form as follows:

i. Key numbers:

(1) Enter any payment(s) received from Social Security (RSDI);

(2) Enter amount of calculated earned income, if any, as determined in Part V. In companion cases, enter the total CEI of the two segments;

(3) Enter any other income actually available to the eligible unit, identifying the source in the space provided, such as contributions from LRRs, pensions other than Social Security, and so forth (see N.J.A.C. 10:82-4.10 through 4.12 on unearned income), and adjustment for eligible member temporarily out of the home (N.J.A.C. 10:82-1.6(b) and 1.7(e));

(4) Total all income;

(5) Enter public assistance allowance(s) from the appropriate schedules;

(6) Enter the amount, or total of amounts, in (5);

(7) Enter total income from (4);

(8) Subtract (7) from (6) to determine the adjusted allowance.

ii. The monthly grant:

(1) The monthly grant is the amount of the adjusted allowance unless part or all of payment is being recouped in accordance with N.J.A.C. 10:82-2.19(c).

(2) If the amount of the monthly grant is not a whole dollar, the grant shall be rounded down to the next lower whole dollar.

(3) No grant shall be payable if the amount determined is less than \$10.00 except when the grant is less than \$10.00 solely as a result of the recovery of an overpayment.

(4) Even if maximum eligibility has been established, if no income deficit exists (except when due solely to the recovery of an overpayment or because of rounding the amount which would otherwise be payable) the family is ineligible for AFDC and Medicaid.

5. Part III: Determine the amount of the first assistance payment (initial grant) in accordance with N.J.A.C. 10:82-2.3.

6. Part IV: Entries under Recommendation and Decision, Part IV, shall be made by the worker, using one or more of the spaces provided. Thus, the initial grant and the regular grant may both be listed; the regular grant only; or any other applicable combination. Give "Reason for Action" to explain the recommendation(s). The PA-3A becomes an official authorization when the county welfare agency director's signature or facsimile appears in the lower right corner.

Amended by R.1979 d.363, effective November 1, 1979.
 See: 11 N.J.R. 377(a), 11 N.J.R. 519(d).
 Amended on an emergency basis by R.1981 d.396, effective September 30, 1981, exp. November 30, 1981.
 See: 13 N.J.R. 763(a). Readopted, R.1981 d.519, effective December 31, 1981.
 See: 13 N.J.R. 763(a), 14 N.J.R. 102(d).
 (b)4ii(3) and (4) added; (b)5: "No initial . . . \$10.00" added.
 Amended by R.1982 d.440, effective December 1, 1982.
 See: 14 N.J.R. 1169(a), 14 N.J.R. 1461(a).
 Originally filed as an emergency adoption (R.1982 d.367) on October 1, 1982. Readopted as R.1982 d.440. If not a whole dollar, benefits are to be rounded down.
 Amended by R.1982 d.443, effective December 20, 1982.
 See: 14 N.J.R. 952(a), 14 N.J.R. 1459(b).
 At iv., language was deleted regarding persons between 18 and 21 years of age.
 Amended by R.1989 d.497, effective September 18, 1989.
 See: 21 N.J.R. 1811(a), 21 N.J.R. 3014(a).
 Reference to CODES deleted and replaced with references to FAMILIS.
 Amended by R.1991 d.7, effective January 7, 1991.
 See: 22 N.J.R. 2445(a), 23 N.J.R. 93(a).
 In (b)4i(3): revised N.J.A.C. to read "N.J.A.C. 10:82-1.6(b) and 1.7(e)."
 Amended by R.1992 d.261, effective June 15, 1992 (operative July 1, 1992).
 See: 24 N.J.R. 1194(a), 24 N.J.R. 2258(a).
 In (b): deleted non-current N.J.A.C. citations.

10:82-2.2 Initial grant

(a) When eligibility has been determined, the initial grant shall be computed as follows:

1. All income which has been received or which will be received in the month of application shall be counted in accordance with the best estimate policy found at N.J.A.C. 10:82-1.10. The countable income shall be subtracted from the appropriate monthly assistance standard and the result shall be prorated by multiplying that amount by the factor appropriate for the date of application in the table below. If the result is not a whole dollar amount, the amount shall be rounded in the next lower whole dollar.

Date of Application	Multiplication Factor	Date of Application	Multiplication Factor
1	1.000	16	.5000
2	.9666	17	.4666
3	.9333	18	.4333
4	.9000	19	.4000
5	.8666	20	.3666
6	.8333	21	.3333
7	.8000	22	.3000
8	.7666	23	.2666
9	.7333	24	.2333
10	.7000	25	.2000

Date of Application	Multiplication Factor	Date of Application	Multiplication Factor
11	.6666	26	.1666
12	.6333	27	.1333
13	.6000	28	.1000
14	.5666	29	.0666
15	.5333	30 and 31	.0333

(b) In determining the amount of the initial grant, the appropriate disregards shall be applied to earned income.

(c) The effective date of the initial grant shall be the date of the application if the client was eligible on that date. If the client was found eligible on any other date, the initial grant shall be retroactive to the date eligibility commenced.

Amended by R.1978 d.157, effective June 1, 1978.
 See: 10 N.J.R. 113(a), 10 N.J.R. 255(b).
 Amended by R.1980 d.331, effective September 1, 1980.
 See: 12 N.J.R. 320(b), 12 N.J.R. 484(a).
 (c) added.
 Amended by R.1982 d.440, effective December 1, 1982.
 See: 14 N.J.R. 1169(a), 14 N.J.R. 1461(a).
 Originally filed as an emergency adoption (R.1982 d.367) on October 1, 1982. Readopted as R.1982 d.440. Chart of multiplication factors added.
 Amended by R.1982 d.443, effective December 20, 1982.
 See: 14 N.J.R. 952(a), 14 N.J.R. 1459(b).
 Original subsection entitled "Initial eligibility" deleted in its entirety and subsection 2.3 recodified at this cite.
 Amended by R.1985 d.299, effective June 17, 1985.
 See: 17 N.J.R. 546(b), 17 N.J.R. 1566(a).
 (a)1: substantially amended.
 Amended by R.1992 d.261, effective June 15, 1992 (operative July 1, 1992).
 See: 24 N.J.R. 1194(a); 24 N.J.R. 2258(a).
 In (a) and (b): deleted non-current N.J.A.C. citations.

10:82-2.3 Income from eligible and noneligible individuals in the household

(a) Family groups living together: For purposes of AFDC, in family groups living together, income of the spouse is considered available for children under 18. If the spouse or parent is living with his or her spouse or children, respectively, income is considered available regardless of whether the spouse or natural or adoptive parent is noneligible or sanctioned. However, if a spouse or parent is receiving SSI benefits, including mandatory or optional State supplementary payments, then for the period for which such benefits are received, his or her income and resources shall not be counted as income and resources available to the eligible family.

1. If the spouse is also a stepparent of eligible AFDC-C children and is in fact a member of the household, income will be considered available in accordance with N.J.A.C. 10:82-2.9.

2. For earned income, the net amount to be considered available to the eligible family shall be determined by deducting only the first \$90.00 of such income for each employed individual in the AFDC-C, -F and -N segments to cover work-related expenses, including, but not limited to, transportation and mandatory payroll deductions and the actual expenses of child care or care for an incapacitated individual in the household (when applicable as set forth in N.J.A.C. 10:82-2.8 and 4.4) that do not exceed the following rates:

- i. \$175.00 per month, per child age two or older, or incapacitated adult, for full-time employment;
- ii. \$200.00 per month, per child under age two, for full-time employment;
- iii. \$135.00 per month, per child age two or older, or incapacitated adult, for part-time employment;
- iv. \$150.00 per month, per child under age two, for part-time employment.

(b) **Noneligible individual:** A noneligible individual is neither sanctioned nor required by law or regulation to be included in the eligible unit. When a noneligible individual is living in the household of an eligible unit, the income from that living arrangement to the eligible unit shall be treated in accordance with N.J.A.C. 10:82-4.3(c) if extensive personal services are provided, or N.J.A.C. 10:82-4.12. If the non-eligible individual is an illegal alien parent, (see N.J.A.C. 10:81-3.9), his or her income shall be considered available to the eligible unit and shall be calculated in accordance with the stepparent deeming formula at N.J.A.C. 10:82-2.9(d).

(c) **Sanctioned individual:** A sanctioned individual is not included in the eligible unit because of the imposition of a sanction for failure or refusal to comply with an AFDC eligibility requirement. When an individual is not included in the eligible unit because of a sanction and has earned or unearned income of his or her own, such income shall be considered available to the remaining members of the eligible unit.

1. For earned income, the net amount to be considered available to the eligible unit shall be determined without application of earned income disregards set forth in N.J.A.C. 10:82-2.8.

Amended by R.1978 d.157, effective June 1, 1978.

See: 10 N.J.R. 113(a), 10 N.J.R. 255(b).

Amended by R.1979 d.363, effective November 1, 1979.

See: 11 N.J.R. 377(a), 11 N.J.R. 519(d).

Amended on an emergency basis, R.1981 d.396, effective September 30, 1981, exp. November 30, 1981.

See: 13 N.J.R. 763(a).

Readopted, R.1981 d.519, effective December 31, 1981.

See: 13 N.J.R. 763(a), 14 N.J.R. 102(d).

(b): deleted "or in ... 2.9(d)"; (b)1: added "to the eligible units"; deleted "expenses ... does not apply" and added "only the first ... (or individually)".

Amended by R.1982 d.443, effective December 20, 1982.

See: 14 N.J.R. 952(a), 14 N.J.R. 1459(b).

Section 2.4 recodified as 2.3, deductions for part-time employment added.

Amended as emergency rule, R.1984 d.463, effective September 28, 1984 (operative October 1, 1984).

See: 16 N.J.R. 2837(a).

Deleted "\$50.00 for part-time employment".

Readopted, R.1984 d.568, effective November 28, 1984.

See: 16 N.J.R. 2837(a), 16 N.J.R. 3442(a).

Was previously filed as emergency amendment R.1984 d.463.

Correction: Substituted "or" for "an" in (b).

See: 17 N.J.R. 2917(a).

Amended by R.1986 d.470, effective December 1, 1986.

See: 18 N.J.R. 928(a), 18 N.J.R. 2388(a).

Substantially amended.

Amended by R.1989 d.497, effective September 18, 1989.

See: 21 N.J.R. 1811(a), 21 N.J.R. 3014(a).

Children "under 21" changed to children "under 18."

Amended by R.1991 d.7, effective January 7, 1991.

See: 22 N.J.R. 2445(a), 23 N.J.R. 93(a).

In (a)2: changed net amount to \$90.00 from \$75.00, adding text regarding work-related expenses and N.J.A.C. citations.

Added new (a)2.i-iv.

Amended by R.1992 d.261, effective June 15, 1992 (operative July 1, 1992).

See: 24 N.J.R. 1194(a); 24 N.J.R. 2258(a).

In (a)2.: added citation to N-segment.

Administrative Correction.

See: 26 N.J.R. 4047(a).

Amended by R.1994 d.613, effective December 19, 1994 (operative January 1, 1995).

See: 26 N.J.R. 3932(a), 26 N.J.R. 5022(b).

Case Notes

See *Hausman v. Dept. of Institutions and Agencies*, 124 N.J. Super. 139, 305 A.2d 85 (App.Div.1973) affirmed, 64 N.J. 202, 314 A.2d 362 (1974), cert. den. 94 S.Ct. 3083, 417 U.S. 955, 41 L.Ed.2d 674 (1974).

Initial eligibility for AFDC grant must be determined on all income available at any time during the month the application was received (Director's Final Decision). In the Matter of P.B., 8 N.J.A.R. 329 (1980), aff'd 175 N.J. Super. 158 (App.Div.1980).

Cost standard for roomer-boarders (citing former N.J.A.C. 10:82-2.4); determination of foster child status versus roomer-boarder status for AFDC grant calculation. Burlington Cty. Welfare Agency v. L.N., 4 N.J.A.R. 159 (1982).

10:82-2.4 Penalty of ineligibility

When a member of an eligible unit has incurred a penalty of ineligibility for AFDC due to the imposition of a sanction, such individual cannot be included in the eligible unit and his or her needs shall not be taken into account in determining the family's need for assistance. However, his or her income in excess of amounts set forth in N.J.A.C. 10:82-2.3(c) shall still be considered available to the remaining members of the eligible unit (also see N.J.A.C. 10:81-8.13(a)2).

As amended, R.1982 d.443, eff. December 20, 1982.

See: 14 N.J.R. 952(a), 14 N.J.R. 1459(b).

Section 2.5 recodified as section 2.4.

As amended, R.1983 d.318, eff. July 20, 1983.

See: 15 N.J.R. 935(a), 15 N.J.R. 1377(a).

Internal cite corrected.

Amended by R.1986 d.470, effective December 1, 1986.

See: 18 N.J.R. 928(a), 18 N.J.R. 2388(a).

Substantially amended.

10:82-2.5 Needs of certain children temporarily in the home

(a) When an otherwise eligible child, ordinarily maintained by an agency other than the CWA, is temporarily, in the home of an eligible unit for seven or more consecutive days, the needs of such child shall be computed in the following manner:

1. Determine the difference between the monthly grant when the child is not present and the monthly grant including the child in the eligible unit;

2. Prorate the difference on a per diem basis (for example, divided by the number 30);

3. Multiply this amount by the number of days the child is in the home;

4. Issue the amount in addition to the regular monthly grant.

(b) When an institutionalized child is on temporary visit home (and an AFDC eligible case is not in existence), he/she may be eligible for General Assistance if the visit does not exceed 21 consecutive days. In such instances the CWA shall refer the child to the appropriate MWD. If the length of such child's visit is expected to exceed 21 days, the CWA shall process the AFDC application and evaluate the family's eligibility for AFDC for the duration of the visit.

Amended by R.1978 d.157, effective June 1, 1978.

See: 10 N.J.R. 113(a), 10 N.J.R. 255(b).

Amended by R.1980 d.28, effective March 1, 1980.

See: 11 N.J.R. 556(a), 12 N.J.R. 86(c).

Added subsection (b).

Amended by R.1982 d.443, effective December 20, 1982.

See: 14 N.J.R. 952(a), 14 N.J.R. 1459(b).

Section 2.6 recodified as section 2.5.

Case Notes

Initial eligibility for AFDC grant must be determined on all income available at any time during the month the application was received (Director's Final Decision) (cited as N.J.A.C. 10:82-6.1 et seq.). In the Matter of P.B., 8 N.J.A.R. 329 (1980).

10:82-2.6 Initial eligibility

(a) On all new applications, reapplications, or reopened applications, initial financial eligibility must be established before a determination of the amount of the monthly grant can be made.

1. Earned income disregards: For AFDC-C, -F and -N cases, when the eligible family received assistance in one of the four months prior to the month of application, all earned income disregards at N.J.A.C. 10:82-2.8 shall apply to the determination of initial financial eligibility. For AFDC-C, -F and -N cases which have not received assistance in one of the four months prior to the month of application, the earned income disregards apply, except that the disregard of the first \$30.00 of the remaining income plus one-third of the remainder does not apply. If total income equals or exceeds the public assistance allowance payment standard in Schedule II for the eligible family size, the family is ineligible for assistance. In the computation of the initial AFDC grant, application of the \$30.00 and one-third earned income disregards is subject to the limitations at N.J.A.C. 10:82-2.8.

2. The earned income of a full-time student shall be disregarded in determining initial financial eligibility to the same extent as provided in N.J.A.C. 10:82-4.7(g). The income of a part-time student is not disregarded in determining initial eligibility.

Amended by R.1979 d.363, effective November 1, 1979.

See: 11 N.J.R. 377(a), 11 N.J.R. 519(d).

Amended on an emergency basis, R.1981 d.396, effective September 30, 1981, expired November 30, 1981.

See: 13 N.J.R. 763(a).

Readopted, R.1981 d.519, effective December 31, 1981.

See: 13 N.J.R. 763(a), 14 N.J.R. 102(d).

Deleted "initial" before second use of "determination" and after first use of "regarding"; added "maximum income" before "eligibility", and added "maximum income eligibility and added eligibility for "before AFDC-N".

R.1982 d.443, effective December 20, 1982.

See: 14 N.J.R. 952(a), 14 N.J.R. 1459(b).

This section was recodified from N.J.A.C. 10:82-2.2.

Amended on an emergency basis, R.1984 d.463, effective September 29, 1984 (operative October 1, 1984).

See: 16 N.J.R. 2837(a).

(a)1 added.

Readopted R.1984 d.568, effective November 28, 1984 (amendment effective December 16, 1984).

See: 16 N.J.R. 2837(a), 16 N.J.R. 3442(a).

Was previously filed as emergency amendment R.1984 d.463.

Amended by R.1988 d.38, effective January 19, 1988.

See: 19 N.J.R. 1781(a), 20 N.J.R. 193(a).

Deleted text in (a) "For AFDC-C and -F . . ."; added new (a)1 and renumbered old (a)1 to (a)2.

Amended by R.1992 d.261, effective June 15, 1992 (operative July 1, 1992).

See: 24 N.J.R. 1194(a), 24 N.J.R. 2258(a).

In (a)1: added N-segment text and reference to Schedule II public assistance allowance payment standard.

Case Notes

Boyle v. Riti, 175 N.J. Super. 158, 163 (App.Div. 1980).

10:82-2.7 Initial eligibility; AFDC-C, -F and -N procedures

(a) The procedures regarding initial income eligibility are:

1. Identify the number of persons in the eligible unit;
 - i. A child(ren) born to an AFDC recipient family to which the provisions of N.J.A.C. 10:82-1.11 apply shall be included in the eligible unit for purposes of the initial eligibility determination.

2. Determine the total monthly income (including gross earned income) available to the eligible unit and compare it to the maximum income level in N.J.A.C. 10:82-1.2(a). (Exception: For a non-needy stepparent who marries an AFDC-C recipient parent on or after October 1, 1992, unless the family has been randomly assigned to a control group for purposes of evaluation, eligibility for the AFDC children shall be determined in accordance with the regulations at N.J.A.C. 10:82-2.10.) If total income equals or is less than the maximum for the appropriate eligible unit size, maximum income eligibility has been established and the grant amount shall be determined in accordance with N.J.A.C. 10:82-2.8. If total income exceeds the appropriate maximum for any month, the family is not eligible for assistance.

Amended on an emergency basis, R.1981 d.396, effective September 30, 1981, expired November 30, 1981. See: 13 N.J.R. 763(a). Readopted, R.1981 d.519, effective December 31, 1981. See: 13 N.J.R. 763(a), 14 N.J.R. 102(d).

Catchline "Initial" deleted and "maximum income" added.

(a): "initial" deleted and "maximum income" substituted therefor; (a)2: "Use ... allowance" deleted and "determine ... assistance" added; (a)3-5 deleted.

Amended by R.1992 d.261, effective June 15, 1992 (operative July 1, 1992).

See: 24 N.J.R. 1194(a), 24 N.J.R. 2258(a).

In (a)2: updated N.J.A.C. citation to correct subsection reference to N.J.A.C. 10:82-1.2(a) from subsection (d).

Amended by R.1992 d.367, effective September 21, 1992 (operative October 1, 1992).

See: 24 N.J.R. 2155(a), 24 N.J.R. 3352(a).

Exclusion of non-needy stepparent added.

Case Notes

Initial eligibility for AFDC grant must be determined on all income available at any time during the month the application was received (Director's Final Decision). In the Matter of P.B., 8 N.J.A.R. 329 (1980).

10:82-2.8 Determination of calculated earned income: AFDC-C, -F and -N procedures

(a) From the total gross earnings of each employed person in the AFDC-C, -F and -N segments, deduct the cost of producing income if self-employed (see N.J.A.C. 10:82-4.3) and proceed as follows:

1. From gross earnings deduct the first \$90.00 of such earnings for each employed individual in the eligible family to cover work-related expenses including, but not limited to, transportation and mandatory payroll deductions.

2. For a period of not longer than four consecutive months, deduct the first \$30.00 of the remaining earned income plus one-third of the remainder for each employed individual in the eligible family. For REACH participants in the work supplementation program (WSP) see N.J.A.C. 10:81-14.11 and 14.21.

- i. This deduction shall cease after a period of four consecutive months and shall not be applied again so long as the wage earner is a recipient of AFDC-C, -F or -N benefits. This deduction will again be applied after the original four consecutive month period only after the wage earner has not been a recipient of AFDC-C, -F or -N benefits for a period of 12 consecutive months. (See also N.J.A.C. 10:82-4.4.)

3. For a period not exceeding eight months from the end of the four consecutive months of the \$30.00 plus one-third of the remainder disregard, a deduction of the first \$30.00 of the remaining income shall be applied.

- i. Upon expiration of the eight-month period, this deduction shall not be applied again so long as the wage earner is a recipient of AFDC-C, -F or -N benefits. This deduction will again be applied after the eight-month period only after the wage earner has not been a recipient of AFDC-C, -F or -N benefits for a period of 12 consecutive months.

4. Deduct an amount equal to the actual expenditures for child care or for care of an incapacitated individual living in the same home as the AFDC-C, -F or -N eligible family when any of the circumstances in (b) below apply to the eligible family. In no event shall this deduction exceed the limits as follows:

- i. \$175.00 per month, per child age two or older, or incapacitated adult, for full-time employment;

- ii. \$200.00 per month, per child under age two, for full-time employment;

- iii. \$135.00 per month, per child age two or older, or incapacitated adult, for part-time employment (for example, employment of less than 120 hours per month);

- iv. \$150.00 per month, per child under age two, for part-time employment (for example, employment of less than 120 hours per month).

5. If applicable, deduct from the monthly earned income of each employed person in that family the State earned income disregard, which shall be determined in accordance with N.J.A.C. 10:82-2.8(c).

(b) The deduction described in (a)4 above shall be made for actual expenditures for child care or for care of an incapacitated adult living in the same home as the AFDC-C, -F or -N eligible family when any of the following circumstances apply to the eligible family:

1. That employed AFDC-C or -F family who had been continuously eligible for and was receiving AFDC-C or -F benefits on October 13, 1988, and had earnings on that date whereby the child care disregard was the method of payment for child care costs, and who would be financially disadvantaged due to loss of AFDC eligibility as a result of the direct payment of child care costs rather than use of the child care disregard when employed and participating in REACH/JOBS;

2. The family pays expenditures for care of an incapacitated adult living in the AFDC-C, -F or -N household to enable the AFDC-C, -F or -N employed individual to remain employed. This disregard process shall be used in determining the calculated earned income to an AFDC-C, -F or -N family to meet the costs of care of an incapacitated adult in the household if the family incurs such expenses, regardless of the fact that direct payment for child care costs may be paid by the agency (see N.J.A.C. 10:82-5.3(b) and 10:81-14.18(d)1);

3. An AFDC-C, -F or -N applicant family which has an employed family member who is defined as a REACH/JOBS mandatory participant (that is, not exempt from REACH/JOBS participation) shall use the disregard method for costs of child care due to employment during the interim time period covering referral of the mandatory individual to REACH/JOBS case management; and until such time (subject to timely and adequate notice provisions at N.J.A.C. 10:81-7.1 and 14.7) that income maintenance is subsequently advised by case management of the direct payment of child care costs through REACH/JOBS;

4. The employed individual who works 30 or more hours per week, is exempt from REACH/JOBS, and does not volunteer as a participant in the REACH/JOBS program (see N.J.A.C. 10:81-14.3(c) and 14.3A(a)14);

5. The REACH/JOBS child care payment is made to a child care provider selected by the AFDC-C, -F or -N family participating in REACH/JOBS, and that provider does not meet the criteria at N.J.A.C. 10:82-5.3(c) through (f) and N.J.A.C. 10:81-14.18(f) as an authorized child care arrangement for direct payment through REACH/JOBS; or

6. The AFDC-C or -F REACH/JOBS family who has an employed family member who has been participating in REACH/JOBS prior to April 1, 1991, and who has been utilizing the disregard process on or before April 1, 1991, to meet child care costs for that active REACH/JOBS member who was employed.

(c) Each employed person residing in a family in which a child is excluded from the eligible unit in accordance with N.J.A.C. 10:82-1.11 shall have deducted from his or her monthly earned income the additional State earned income disregard specified below.

1. The State earned income disregard is equal to the sum total of the applicable Federal disregards determined in accordance with (a)1 through 4 above, subtracted from 50 percent of the payment standard indicated in Schedule II for the appropriate eligible unit size. The State earned income disregard shall be recalculated periodically whenever the Federal disregards change as illustrated in (c)1i(1) through (3) below. Eligible unit size shall include, for purposes of developing the State earned income disregard, all members of the AFDC eligible unit plus the child(ren) excluded in accordance with N.J.A.C. 10:82-1.11.

i. To illustrate the procedure addressed in (c)1 above, if the AFDC household consists of three AFDC recipients and one child excluded pursuant to N.J.A.C. 10:82-1.11, the agency would proceed as follows to establish the amount of the State earned income disregard:

(1) For the first four months in which the earned income is considered in the determination of grant amount, subtract the sum total of the disregards specified in (a)1, 2 and 4 above (if applicable) from 50 percent of the payment standard amount in Schedule II for an eligible unit of four.

(2) For the following eight consecutive months, subtract the sum total of the disregards specified in (a)1, 3 and 4 above (if applicable) from 50 percent of the payment standard in Schedule II for an eligible unit of four.

(3) For the remainder of time that the family remains eligible for AFDC, subtract the disregards specified in (a)1 and 4 above (if applicable) from 50 percent of the payment standard in Schedule II for an eligible unit of four.

Amended on an emergency basis, R.1981 d.396, effective September 30, 1981.

See: 13 N.J.R. 763(a).
 Readopted, R.1981 d.519, effective December 31, 1981.
 See: 13 N.J.R. 763(a), 14 N.J.R. 102(d).
 Section substantially amended.
 Amended by R.1982 d.443, effective December 20, 1982.
 See: 14 N.J.R. 952(a), 14 N.J.R. 1459(b).
 Identified income deductions for part-time employment.
 Emergency Rule, R.1984 d.463, effective September 28, 1984 (operative October 1, 1984).
 See: 16 N.J.R. 2837(a).
 (a)4 added; old (a)4 changed to (a)5.
 Readopted R.1984 d.568, effective November 28, 1984.
 See: 16 N.J.R. 2837(a), 16 N.J.R. 3442(a).
 Was previously filed as emergency amendment R.1984 d.463.
 Amended by R.1989 d.497, effective September 18, 1989.
 See: 21 N.J.R. 1811(a), 21 N.J.R. 3014(a).
 Reference to REACH participants added.
 Amended by R.1991 d.7, effective January 7, 1991.
 See: 22 N.J.R. 2445(a), 23 N.J.R. 93(a).
 In (a)1: Increased dollar amount to "\$90.00" from "\$75.00" and added text referring to work-related expenses.
 Deleted old (a)2, recodifying existing 3-4 as 2-3 and added new 4.
 Amended by R.1991 d.556, effective November 4, 1991.
 See: 23 N.J.R. 2217(a), 23 N.J.R. 3366(a).
 Incorporated FSA provisions for direct payment to child care providers rather than the disregard method, and outlines exemptions from the direct payment method.
 Added text examples to (a)4iii and iv and deleted (a)5.
 Added new text as subsection (b).
 Amended by R.1992 d.261, effective June 15, 1992 (operative July 1, 1992).
 See: 24 N.J.R. 1194(a), 24 N.J.R. 2258(a).
 In (a) and (b): added N-segment reference.
 Administrative correction to (a)4.
 See: 24 N.J.R. 2626(b).
 Amended by R.1992 d.367, effective September 21, 1992 (operative October 1, 1992).
 See: 24 N.J.R. 2155(a), 24 N.J.R. 3352(a).
 Text on applicable disregard to be used added at (c).

Case Notes

See for historical purposes *Avco Financial Services v. Kaminsky*, 167 N.J. Super. 195, 197, 400 A.2d 581 (Ct. Ct. 1979) (garnishments deducted from gross earnings).

AFDC grant reduction noted at end of four-month income disregard period. *Burlington Cty. Welfare Agency v. L.N.*, 4 N.J.A.R. 159 (1982).

10:82-2.9 AFDC-C procedures for stepparents who have married an AFDC recipient prior to October 1, 1992, who marries on or after October 1, 1992 but prior to application or reapplication for AFDC, or who is a needy stepparent who marries an AFDC-C recipient on or after October 1, 1992

(a) When a stepparent marries the natural or adoptive AFDC-C recipient parent on or after October 1, 1992, the rules applicable to treatment of income and eligible unit composition at (a)1 below shall be applied; if financial eligibility does not exist upon application of the provisions specified in (a)1 below, the stepparent shall be considered non-needy and the rules at N.J.A.C. 10:82-2.10 shall be applied to determine if eligibility exists for the AFDC children. When a stepparent of eligible AFDC-C children is in fact a member of the household and has married the natural or adoptive AFDC recipient parent prior to October 1, 1992 or who marries on or after October 1, 1992 but prior to application or reapplication for AFDC benefits, the natural or adoptive parent who is applying for or receiving assistance shall be afforded the following elective options:

1. The stepparent may be included as a member of the eligible unit, with all needs recognized and his/her income considered in determining the adjusted allowance and the amount of the grant, in accordance with all regulations in this manual.

2. The stepparent may not be included in the eligible unit, in which case the income of the stepparent shall be treated in accordance with (d) below.

(b) The options and all consequences thereof, including financial and medical needs, shall be fully discussed with the client before the decision is made. The decision as to whether the stepparent shall be included (assuming the stepparent is so willing) or excluded shall be made by natural or adoptive parent.

(c) When the stepparent who has married the AFDC-C recipient parent before October 1, 1992, or who marries the natural or adoptive parent on or after October 1, 1992 but prior to application or reapplication for AFDC benefits and is not included in the eligible unit, the eligible unit shall consist of the natural or adoptive parent and the eligible children.

1. The parent of the eligible children shall sign the application for assistance and fulfill all obligations contained therein.

2. The eligible unit's assistance payment shall be computed in accordance with N.J.A.C. 10:82-1.2(c) through (g). The countable income of the stepparent to the eligible unit, as determined in (d) below, shall be deducted as a countable income source.

(d) When a stepparent of eligible AFDC-C children lives in the same home as the children, has married the AFDC-C recipient parent before October 1, 1992, or who marries the natural or adoptive parent on or after October 1, 1992 but prior to application or reapplication for AFDC benefits, and is not included as a member of the eligible family, his or her income shall be considered available to the eligible family in accordance with the following procedures:

1. Reduce the stepparent's gross earned income (and net income from self-employment) by \$90.00.

2. Add the result to the stepparent's unearned income.

3. Further reduce the remaining income by the appropriate amount in the Standard of Need (N.J.A.C. 10:82-1.1A) for the stepparent and any other individuals residing in the household who are or could be claimed by the stepparent as dependents for Federal personal income tax liability and who are not recipients of AFDC-C, -F or -N.

4. The remaining income shall be further reduced by amounts paid by the stepparent to individuals not living in the household who are or could be claimed by him/her as

dependents for purposes of determining his or her Federal personal income tax liability.

5. Any income remaining shall be reduced by any amounts paid by the stepparent as alimony or child support to individuals not living in the household.

6. All income remaining shall be counted as unearned income available to the eligible unit and shall be counted toward total income (N.J.A.C. 10:82-1.2(a)) and in the determination of grant amount.

Amended by R.1978 d.76, effective April 1, 1978.

See: 10 N.J.R. 14(b), 10 N.J.R. 153(c).

Amended by R.1979 d.363, effective November 1, 1979.

See: 11 N.J.R. 377(a), 11 N.J.R. 519(d).

Amended by R.1980 d.79, effective April 1, 1980.

See: 11 N.J.R. 555(a), 12 N.J.R. 126(d).

Added paragraph (a)1.

Amended on an emergency basis, R.1981 d.396, effective September 30, 1981, expired November 30, 1981.

See: 13 N.J.R. 763(a). Readopted, R.1981 d.519, effective December 31, 1981.

See: 13 N.J.R. 763(a), 14 N.J.R. 102(d).

Catchline: "and -F" deleted. Section substantially amended.

Amended by R.1982 d.443, effective December 20, 1982.

See: 14 N.J.R. 952(a), 14 N.J.R. 1459(b).

Deduction for part-time employment added.

Amended by R.1989 d.497, effective September 18, 1989.

See: 21 N.J.R. 1811(a), 21 N.J.R. 3014(a).

Part-time disregard changed from \$50 to \$75.

Amended by R.1992 d.261, effective June 15, 1992 (operative July 1, 1992).

See: 24 N.J.R. 1194(a), 24 N.J.R. 2258(a).

In (c)2: added Schedule II reference, changing "allowance" to "payment" standard. In (d)3: added references to Standard of Need and N-segment.

Amended by R.1992 d.367, effective September 21, 1992 (operative October 1, 1992).

See: 24 N.J.R. 2155(a), 24 N.J.R. 3352(a).

Exclusion of non-needy stepparents added at (f).

Amended by R.1994 d.430, effective August 15, 1994.

See: 26 N.J.R. 1584(a), 26 N.J.R. 3583(a).

10:82-2.10 Procedures for non-needy stepparents marrying a natural or adoptive AFDC-C recipient parent on or after October 1, 1992

(a) The provisions in this section do not apply to AFDC families who have been randomly assigned to a control group for purposes of evaluation requirements pertaining to Federally approved waivers. If the non-needy stepparent marries a natural or adoptive AFDC-C recipient parent on or after October 1, 1992, the stepparent, the stepparent's natural or adoptive children and the AFDC-C recipient parent shall be excluded from the eligible unit. Eligibility for the AFDC children shall be established provided that the gross income of the household does not equal or exceed the maximum income limits for the applicable household size in Schedule VII in (d) below, and the countable income of the eligible children (excluding any income deemed from the natural or adoptive parent) does not equal or exceed the limits referenced in (b) below.

(b) AFDC eligibility shall not exist for any month in which the countable income of the AFDC children (excluding the deemed income from their natural or adoptive

parent) equals or exceeds the maximum payment amount indicated in Schedule II for the appropriate number of AFDC children in the eligible unit.

(c) AFDC eligibility shall not exist for any month if the total income of the household exceeds the amount indicated in Schedule VII for the appropriate number of persons in the household. The household shall include the natural or adoptive parent, his or her children, the non-needy stepparent and the stepparent's children residing in the same household who are claimed or could be claimed by the stepparent as dependents for Federal personal income tax liability and who are not recipients of AFDC or SSI benefits.

1. The income of the household shall be determined by counting the gross income of all members of the household (with the exclusion of SSI recipients) which shall be reduced only by any amounts paid as alimony or child support to individuals not living in the household.

2. The gross income derived from the computation procedures in (c)1 above shall be compared to the maximum income limits in Schedule VII. Provided the household's gross income does not equal or exceed the limit in Schedule VII for the appropriate household size, initial AFDC-C eligibility shall be established for the children of the natural or adoptive parent (excluding children who are recipients of SSI benefits). If the household's gross income does equal or exceed the applicable amount in Schedule VII, all members of the household shall be ineligible for AFDC benefits.

i. The parent of the eligible children shall sign the application for assistance and fulfill all obligations contained therein.

ii. The grant for the eligible children shall be:

(1) The appropriate allowance payment on Schedule II less any income to the eligible unit, including the countable income of the natural or adoptive parent as determined in (e) below, or the payment maximum in Schedule III, whichever is less.

(2) In no event shall the AFDC payment for the eligible children be reduced below \$10.00 until such time as gross income of the household equals or exceeds the maximum income limit in Schedule VII for the appropriate household size, and the countable income of the eligible children (excluding any income deemed from the parent) does not equal or exceed the payment standard amount indicated in Schedule II for the appropriate eligible unit size.

3. Any case where AFDC eligibility does not exist because total income of the household, including that of the stepparent, exceeds the applicable amount in Schedule VII shall have its Medicaid eligibility evaluated without regard to that stepparent's income (see N.J.A.C. 10:82-2.11(f)).

(d) Maximum income limits for non-needy stepparents marrying AFDC-C recipient parents on or after October 1, 1992 are as follows:

Schedule VII

Maximum Income Limits for Non-Needy Stepparents

Marrying AFDC-C Recipient Parents on or after October 1, 1992

Household Size	Maximum Income Limit
1	\$ 758
2	1149
3	1446
4	1744
5	2041
6	2339
7	2636
8	2991
9	3198
10	3405
Each Additional Person	Add \$207

(e) Countable income to the AFDC-C eligible children in situations where the non-needy stepparent marries the AFDC-C recipient parent on or after October 1, 1992 and the parent and the stepparent are excluded from the eligible unit shall be determined in accordance with the following procedures:

1. The income of the non-needy stepparent shall be totally excluded.

2. Any earned income of the AFDC-C parent shall be reduced by \$90.00 and the result added to any unearned income received by that parent. The result of this calculation is further reduced by the payment standard for an eligible unit of one in Schedule II at N.J.A.C. 10:82-1.2(b). All remaining income of the natural or adoptive parent shall be considered as unearned income and shall be added together with any other countable income of the children (see N.J.A.C. 10:82-4.7 concerning earned income exclusion for students) to determine the total countable income available to the eligible unit. Total countable income shall be deducted from the payment standard for the appropriate eligible unit size in Schedule II and either the remainder or the corresponding amount in Schedule III, whichever is less, shall be the AFDC benefit payable to the eligible children. In the event that the AFDC benefit calculation results in a benefit of less than \$10.00, the rule in (e)3 below shall apply.

3. So long as the countable income of the child(ren) does not exceed the appropriate payment standard for the eligible unit size in Schedule II, in no event shall the AFDC payment for the eligible children be reduced below \$10.00 until such time as the gross income of the household equals or exceeds the maximum income limit in Schedule VII for the appropriate household size.

New Rule, R.1992 d.367, effective September 21, 1992 (operative October 1, 1992).

See: 24 N.J.R. 2155(a), 24 N.J.R. 3352(a).

Previous text on Medicaid eligibility recodified to 2.11.

10:82-2.11 Medicaid eligibility; AFDC-C and -F procedures

(a) AFDC-C and -F parents (including parent-minors) who refuse to participate or accept employment under the REACH/JOBS or FDP programs are not entitled to categorically-related Medicaid. However, in New Jersey, the individual remains eligible for Medicaid so long as other Medicaid eligibility criteria are met.

(b) Children 16 to 18 years old who would be eligible for AFDC-C or -F except that they are not attending school and are not exempt from REACH, but who refuse to participate or accept employment under the REACH program, will continue to be eligible for Medicaid so long as there are other children in the family eligible for AFDC-C or -F (see (d) below).

(c) A child not meeting AFDC age requirements may be eligible for Medicaid if he or she would be otherwise eligible for AFDC-C or -F (see N.J.A.C. 10:81-8.22 through 8.25).

(d) Medicaid eligibility does not exist in cases where, after excluding the child(ren) whose income caused ineligibility for AFDC, there is no child remaining in the eligible family.

(e) Any AFDC family whose eligibility for cash assistance is denied or terminated as a result of deeming of a sibling's or stepparent's income or alien sponsor's deeming of income and resources, shall have its Medicaid eligibility evaluated without regard to that individual's needs or income.

(f) Any family who has been denied or terminated from AFDC because the total income of the household, including that of the stepparent, exceeds the applicable amount in Schedule VII (see N.J.A.C. 10:82-2.10(d)) shall have its Medicaid eligibility evaluated without regard to that stepparent's income. In this instance, Medicaid eligibility shall be evaluated for the natural or adoptive parent and that parent's children only.

(g) Any child excluded from the AFDC eligible unit in accordance with the provisions of N.J.A.C. 10:82-1.11 shall be categorically eligible for Medicaid benefits.

Prior annotations for rule, "Initial Eligibility; AFDC-N" (Reserved), follow:

Amended by R.1977 d.188, effective June 1, 1977.

See: 9 N.J.R. 174(b), 9 N.J.R. 278(b).

Amended by R.1983 d.318, effective July 20, 1983.

See: 15 N.J.R. 935(a), 15 N.J.R. 1377(a).

Internal cite corrected.

Repealed by R.1992 d.261, effective June 15, 1992 (operative July 1, 1992).

See: 24 N.J.R. 1194(a), 24 N.J.R. 2258(a).

Section was "Initial eligibility; AFDC-N"; now reserved.

Annotations for "Medicaid eligibility; AFDC-C and -F procedures" follow:

Amended by R.1978 d.157, effective June 1, 1978.

See: 10 N.J.R. 113(a), 10 N.J.R. 255(b).

Amended by R.1982 d.443, effective December 20, 1982.

See: 14 N.J.R. 952(a), 14 N.J.R. 1459(b).

Language about 18 to 21 year olds deleted.

Amended by R.1989 d.497, effective September 18, 1989.

See: 21 N.J.R. 1811(a), 21 N.J.R. 3014(a).

Amended to comply with *Rosado v. Bowen*, Civil Action No. 86-1766.

Amended by R.1991 d.7, effective January 7, 1991.

See: 22 N.J.R. 2445(a), 23 N.J.R. 93(a).

In (a): added REACH and TEEN PROGRESS references; added "(parent-minors)" and "categorically-related" to define Medicaid. Added sentence explaining Medicaid eligibility. In (b): deleted "WIN" and added "REACH," changing "register" to "participate" regarding program.

Amended by R.1992 d.367, effective September 21, 1992 (operative October 1, 1992).

See: 24 N.J.R. 2155(a), 24 N.J.R. 3352(a).

Text on "Medicaid eligibility; AFDC-C or -F procedures", recodified from 2.10; non-needy stepparent's income not included in evaluation of income.

Amended by R.1994 d.430, effective August 15, 1994.

See: 26 N.J.R. 1584(a), 26 N.J.R. 3483(a).

Case Notes

Boyle v. Riti, 175 N.J. Super. 158 (App. Div. 1980).

10:82-2.12 (Reserved)

Repealed by R.1992 d.261, effective June 15, 1992 (operative July 1, 1992).

See: 24 N.J.R. 1194(a), 24 N.J.R. 2258(a).

Section was "Determination of calculated earned income; AFDC-N".

10:82-2.13 Companion cases

(a) An eligible unit may include some members eligible for AFDC-C and others eligible for AFDC-F or AFDC-N. These combinations are called companion cases.

(b) A single PA-3A form is prepared for the total eligible unit, including all members of each segment. The PA-3A form will show a common case number.

1. In Part I of the PA-3A, the appropriate segment is checked for each eligible individual. The number of adults and children eligible for each segment is recorded in the "Recipient Count" box in the upper right-hand corner of the form.

(c) The public assistance allowance for each segment shall be the payment standard for the total eligible unit on Schedule II or III, as appropriate.

(d) When there is no income, earned or unearned, to any member of the eligible unit, the total payment standard for the family size in Schedule III shall represent the monthly grant for the eligible unit.

(e) When any member of the eligible unit has income, earned or unearned, follow the procedures described in N.J.A.C. 10:82-1.2(c), (f) and (g).

Amended by R.1978 d.314, effective September 7, 1978.

See: 10 N.J.R. 444(a).

Amended by R.1979 d.256, effective July 1, 1979.

See: 11 N.J.R. 282(a), 11 N.J.R. 382(a).

Amended by R.1980 d.294, effective July 1, 1980.

See: 12 N.J.R. 481(b).

Amended to implement a seven percent increase in the AFDC allowance standards.

Amended by R.1982 d.443, effective December 20, 1982.

See: 14 N.J.R. 952(a), 14 N.J.R. 1459(b).

Paragraph (f) added clarifying maximum income eligibility for companion cases, that is, families in which some members are eligible only for AFDC-N.

Amended by R.1984 d.242, effective June 18, 1984 (operative July 1, 1984).

See: 16 N.J.R. 829(a), 16 N.J.R. 1607(a).

Amended as emergency rule, R.1984 d.463, effective September 28, 1984 (operative October 1, 1984).

See: 16 N.J.R. 2837(a).

Maximum Income Level Tables amended.

Readopted R.1984 d.568, effective November 28, 1984.

See: 16 N.J.R. 2837(a), 16 N.J.R. 3442(a).

Was previously filed as emergency amendment R.1984 d.463.

Amended by R.1985 d.341, effective July 1, 1985 (operative July 1, 1985).

See: 17 N.J.R. 880(a), 17 N.J.R. 1656(a).

Schedule of allowances raised.

Amended by R.1987 d.252, effective June 15, 1987.

See: 19 N.J.R. 500(a), 19 N.J.R. 1094(a).

Maximum income level tables amended.

Public Hearing: To include testimony on issues governing the adequacy of the increase in the amended regulations in light of the current cost of living in New Jersey and the relationship of that increase to an adequate standard of need for AFDC and GA recipients.

See: 19 N.J.R. 1658(b).

Amended by R.1992 d.261, effective June 15, 1992 (operative July 1, 1992).

See: 24 N.J.R. 1194(a), 24 N.J.R. 2258(a).

Text revised to equalize AFDC-N segment with AFDC-C and -F segments.

In (c): deleted references to per capita and calculation based on such in (c)1. Added text for "payment standard" and references to appropriate new Schedules at N.J.A.C. 10:82-1.2. Deleted (e)1-3 existing per capita and maximum income level—per capita tables.

10:82-2.14 Contract earnings

Earnings payable under the terms of renewable contract, for example, earnings of school teachers, are to be prorated over the stated term of the contract only.

Amended by R.1979 d.424, effective November 1, 1979.

See: 11 N.J.R. 44(b), 11 N.J.R. 560(a).

Amended by R.1980 d.82, effective May 1, 1980.

See: 12 N.J.R. 29(a), 12 N.J.R. 127(b).

Added (f).

Amended by R.1980 d.332, effective August 1, 1980.

See: 12 N.J.R. 320(c), 12 N.J.R. 484(b).

(c) and (d) substantially amended; (d)1 added.

Amended by R.1981 d.47, effective February 5, 1981.

See: 13 N.J.R. 16(a), 13 N.J.R. 147(b).

Amended the establishment of monthly earnings in the determination of eligibility and grant entitlement.

Amended by R.1981 d.262, effective July 9, 1981.

See: 13 N.J.R. 300(a), 13 N.J.R. 432(b).

Amended new or changed income in AFDC.

Amended by R.1986 d.471, effective December 1, 1986.

See: 18 N.J.R. 260(a), 18 N.J.R. 2388(b).

(b) repealed and (c)-(e) renumbered (b)-(d).

Amended by R.1989 d.497, effective September 18, 1989.

See: 21 N.J.R. 1811(a), 21 N.J.R. 3014(a).

CODES references changed to FAMIS.

Administrative correction to (d).

See: 24 N.J.R. 851(b).

Amended by R.1992 d.261, effective June 15, 1992 (operative July 1, 1992).

See: 24 N.J.R. 1194(a), 24 N.J.R. 2258(a).

Deleted text at subsections (a)-(c) for determining monthly earned income as it is no longer applicable in this determination.

10:82-2.15 Verification of earnings

Earnings may be verified from voucher records or statements in writing submitted by the employed person, subject to additional verification as required by regulations in the Public Assistance Manual.

10:82-2.16 Earnings as lump sum payment

When a member of the eligible unit receives a lump sum payment for services rendered over a period of more than a month, any disregard of earned income is to be computed for each month in which such income was earned.

10:82-2.17 (Reserved)

As amended as emergency rule, R.1984 d.463, eff. September 28, 1984 (operative October 1, 1984).

See: 16 N.J.R. 2837(a).

This rule concerned Income legally designated for a specific individual.

Readopted, R.1984 d.568, eff. November 28, 1984.

See: 16 N.J.R. 2837(a), 16 N.J.R. 3442(a).

Was previously filed as emergency amendment R.1984 d.463.

10:82-2.18 (Reserved)

As amended, R.1982, d.440, eff. December 1, 1982.

See: 14 N.J.R. 1169(a), 14 N.J.R. 1461(a).

Originally filed as an emergency adoption (R.1982 d.367) on October 1, 1982. Readopted as R.1982 d.440. Rule concerning parent in military service deleted.

10:82-2.19 Overpayments and underpayments

(a) Overpayments: Overpayment means a financial assistance payment received by or for an eligible unit for the payment month which exceeds the amount for which that unit was eligible. Upon discovery of an overpayment, the CWA shall take all reasonable steps necessary to promptly correct any overpayment as outlined in this subsection. The CWA shall seek recovery of all overpayments regardless of fault, including overpayments caused by administrative action or inaction and overpayments resulting from assistance paid pending hearing decisions.

1. Determine the amount of the overpayment:

i. The amount of overpayment shall be the amount of assistance received during the period of overpayment less the amount of assistance which should have been received.

(1) In the case of an overpayment caused by the client's failure without good cause to report earned income on a timely basis, the amount of the overpayment shall be calculated without benefit of the earned income disregards. (See also N.J.A.C. 10:82-4.4.)

(2) If an eligible unit is overpaid for which the CWA receives CSP collections, only that amount of assistance paid in excess of support payments received during the period of overpayment shall be considered for overpayment collection.

2. Immediately upon discovery of overpayment, the CWA shall inform the client in writing of the incorrect payment(s), the amount of overpayment and what corrective actions will be taken.

3. Liability for overpayments: Liability for an overpayment is established jointly among:

i. The individual responsible for the overpayment;

(1) "Individual responsible for the overpayment" refers to a recipient who, intentionally or otherwise, e.g., by misstatement or omission, obtains overpayment for himself or herself, or the eligible unit.

ii. The overpaid eligible unit;

iii. The individual members of the overpaid eligible unit; and

iv. Any eligible unit of which a member of the overpaid eligible unit subsequently becomes a member.

4. Recovery may be accomplished by securing repayment from the existing income and resources of the eligible unit, by reducing the assistance payable to the eligible unit, or by securing repayment through court action, if necessary.

5. In the circumstances of an overpayment to an eligible unit which is currently receiving assistance (including recipients whose overpayment occurred during a prior period of eligibility), the amount may be repaid (in part or in full) by the eligible unit, or the grant shall be reduced by an amount which is equal to 10 percent of the appropriate allowance standard for the family size. The AFDC grant shall be reduced by this amount until such time as the full amount of the overpayment is recovered. If the grant is reduced to zero because of recovery, members of the eligible unit will continue to be considered recipients of AFDC. If the amount payable because of recovery is less than \$10.00, the AFDC check shall be issued in that lesser amount.

i. When, in the judgment of the CWA, recovery at the 10 percent rate would create undue hardship, that is, recovery at that rate would be detrimental to the well-being of the dependent child(ren), the CWA may establish recovery at a lesser rate, but not below a minimum rate of five percent. The determination of hardship shall be made on a case by case basis and may include, but is not limited to, a CWA determination that the family has extraordinary essential needs which cannot be met if recovery is made at the maximum rate.

6. Priority of recovery when a member of the eligible unit is the individual responsible for the overpayment:

i. If the individual responsible for the overpayment is still a member of the overpaid eligible unit, the CWA shall recover the overpayment from that eligible unit.

ii. If the individual responsible for the overpayment is no longer receiving assistance, the CWA shall initiate court action against the responsible individual to recover the overpayment.

(1) If despite CWA action, recovery is not completed through court action, the CWA shall recover the overpayment in accordance with the provisions of (a)7 below.

iii. If the individual responsible for the overpayment is a member of another eligible unit, the CWA shall recover from that unit.

7. Priority of recovery in all other circumstances: In all other circumstances the CWA shall recover all overpayments from those individuals considered liable for the overpayment in the following order:

i. The overpaid eligible unit;

ii. Any eligible unit of which a member of the overpaid eligible unit subsequently becomes a member; or

iii. Any individual members of the overpaid eligible unit whether or not currently recipients.

8. Overpayments to an eligible unit, all members of which are no longer receiving AFDC, shall be recovered by the CWA through a court of appropriate jurisdiction if the family does not voluntarily repay the overpayment. Where the overpayment amount owed by an eligible unit no longer receiving AFDC is less than \$35.00 or it is determined that recovery efforts are no longer cost effective, the CWA shall proceed in accordance with the provisions of (a)13 below.

9. For cases which have both an underpayment and an overpayment, the CWA may offset one against the other in correcting the payment.

10. The CWA must take one of the following three actions by the end of the quarter following the quarter in which the overpayment is first identified:

i. Recover the overpayment;

ii. Initiate action to locate and/or recover the overpayment from a former recipient; or

iii. Execute a monthly recovery agreement from a current recipient's grant or income/resources.

11. In locating former recipients who have outstanding overpayments, the CWA shall use appropriate data sources such as unemployment insurance files, the Division of Taxation, the Department of Motor Vehicles, Bendex, and other data sources relating to current or former recipients.

12. For overpayments prior to October 1, 1981, the CWA shall recover only if the overpayment resulted from willful withholding of information by the recipient.

13. The CWA may waive recovery of overpayments if the eligible unit is no longer receiving AFDC and the amount overpaid is less than \$35.00. When the amount of the overpayment to an eligible unit no longer receiving AFDC is \$35.00 or more, the CWA may waive the recovery of the overpayment, if after a reasonable effort to recover the overpayment, the CWA determines it is no longer cost-effective to continue recovery efforts. Recovery of overpayments due to fraud may not be waived regardless of the amount of overpayment.

i. Reasonable efforts to recover an overpayment include, at a minimum, written notification of the amount of and reason for the overpayment and that repayment is required.

ii. All circumstances concerning a waiver of recovery must be fully documented in the case record.

14. The CWA shall not initiate or continue recovery of any outstanding overpayments of assistance that occurred in another state.

(b) Underpayments: Underpayment means a financial assistance payment received by or for an eligible unit for the payment month which is less than the amount for which the unit was eligible, or failure by the CWA to issue a financial assistance payment for the payment month to an eligible unit if such payment should have been issued. Upon discovery of an underpayment, the CWA shall determine the amount underpaid and proceed as follows:

1. When underpayment was due to failure of a member of the eligible unit to provide appropriate information, the next regular payment shall reflect the corrected grant for that payment period and the amount necessary to correct the payment for the period immediately preceding.

2. When underpayment was due exclusively to administrative error by the agency, corrective payment shall be made retroactively to that month, within the 12 months immediately preceding the discovery of the underpayment, in which the administrative error first occurred. Corrective payment resulting from a fair hearing decision shall be retroactive to the date the incorrect action was taken.

i. Such retroactive adjustment shall be made as an additional payment as promptly as possible, but in no event later than the time of the next regular payment.

ii. For purposes of determining continuing eligibility or the amount of assistance, retroactive corrective payments shall not be considered as income or resource to the eligible unit either in the month paid or in the following month(s).

(c) No adjustments in the grant other than those recognized in this section are authorized to account for the overpayment or underpayment.

(d) In all situations of overpayments, the facts and circumstances in each case shall be evaluated, and where indicated, action taken as appropriate in accordance with regulations pertaining to fraudulent receipt of assistance (N.J.A.C. 10:81-7.40 through 7.45 and 7.47).

(e) Overpayment and underpayment procedures in supportive services are delineated at N.J.A.C. 10:81-14.24.

Amended by R.1978 d.218, effective August 1, 1978.

See: 10 N.J.R. 113(a).

Amended on an emergency basis, R.1981 d.396, effective September 30, 1981, exp. November 30, 1981. See: 13 N.J.R. 763(a). Readopted, R.1981 d.519, effective December 31, 1981. See: 13 N.J.R. 763(a), 14 N.J.R. 102(d).

Section substantially amended.

Amended by R.1982 d.443, effective December 20, 1982.

See: 14 N.J.R. 952(a), 14 N.J.R. 1459(b).

Incorporated a provision whereby the rate of recovery of overpayments may be reduced for circumstances of hardship.

Amended on emergency basis, R.1984 d.463, effective September 28, 1984 (operative October 1, 1984).

See: 16 N.J.R. 2055(a), 16 N.J.R. 2837(a).

Section substantially amended on emergency concurrent proposal and adoption except for (a)4.-6. which was proposed at 16 N.J.R. 2055(a).

Readoption, R.1984 d.568, effective November 28, 1984.

See: 16 N.J.R. 2837(a), 16 N.J.R. 3442(a).

Previously filed as emergency amendment R.1984 d.463.

Correction: Inserted corrected text in (a)4.-6. The new text was not adopted.

See: 17 N.J.R. 1143(b).

Amended by R.1986 d.54, effective March 3, 1986.

See: 17 N.J.R. 2847(a), 18 N.J.R. 481(a).

Section substantially amended.

Amended by R.1991 d.7, effective January 7, 1991.

See: 22 N.J.R. 2445(a), 23 N.J.R. 93(a).

Added new subsection (e).

Amended by R.1992 d.261, effective June 15, 1992 (operative July 1, 1992).

See: 24 N.J.R. 1194(a), 24 N.J.R. 2258(a).

In (a)4, deleted text regarding suspending assistance to an eligible unit subject to monthly reporting.

In (a)5 and (a)5ii, deleted text referring to monthly reporting regarding recovery and the denial or suspension of assistance.

Case Notes

Provisions for recovery of overpayments of funds or overissuance of food coupons are mandatory. *Childs v. Essex County Div. of Welfare*, 236 N.J.Super. 127, 564 A.2d 889 (L.1988).

Period of ineligibility for public assistance was retroactive to date eligible child left household, and county could recover assistance paid while administrative proceeding was pending. *Childs v. Essex County Div. of Welfare*, 236 N.J.Super. 127, 564 A.2d 889 (L.1988).

County welfare agency could recover entire amount of any unreported income. *Childs v. Essex County Div. of Welfare*, 236 N.J.Super. 127, 564 A.2d 889 (L.1988).

Division of Public Welfare is required to promptly correct any underpayments to current AFDC recipients; such corrective payments are retroactive to the date the incorrect action leading to the underpayment was taken (citing former regulation). *Eherenstorfer v. Div. of Public Welfare*, 196 N.J.Super. 405, 483 A.2d 212 (App.Div.1984).

Recovery of AFDC overpayments. See *Redding v. Burlington Cty. Welfare Bd.*, 123 N.J.Super. 572, 304 A.2d 205 (Law Div.1973), aff'd, 126 N.J.Super. 152, 313 A.2d 221 (App.Div.1973), rev'd, 65 N.J. 439, 323 A.2d 477 (1974).

AFDC overpayments not received as a result of willful withholding of employment information; agency precluded from seeking recoupment of overpayments (Citing former regulation). *Mercer Cty. Welfare Agency v. E.S.*, 5 N.J.A.R. 427 (1983).

Welfare board not allowed to reduce AFDC and Food Stamp benefits to recoup overpayment of benefits after welfare debt discharged in bankruptcy. *Burlington Cty. Welfare Bd. v. J.R.*, 4 N.J.A.R. 34 (1983).

Retroactive underpayment adjustment ordered to reflect status of foster child in household. *Burlington Cty. Welfare Agency v. L.N.*, 4 N.J.A.R. 159 (1982).

10:82-2.20 Change in need while assistance is being received

(a) A change in the circumstances of the eligible unit may result in an adjustment upward or downward in the amount of the assistance payment. Unless (b) below applies, the adjustment must be effective no later than the first day of the month following the month in which the significant change in circumstance occurred. Downward adjustments are subject to timely and adequate notice.

(b) Additional payments to an eligible unit supplementing the last regular payment shall be issued during the current payment period for any of the following reasons only:

1. Administrative error: The CWA shall issue an additional assistance payment(s) supplementing any assistance payment incorrectly computed or not issued due to an administrative error. Such supplemental payment(s) shall be considered as corrections to underpayments;

2. Emergency assistance: The CWA shall supplement an assistance payment with additional payment(s) if authorized under the emergency assistance provisions of N.J.A.C. 10:82-5.10; or

3. Immediate and unanticipated reduction of income (for example, loss of employment, contributions from legally responsible relatives, Social Security or other benefits); or

(c) Any additional payments made to an eligible unit due to the addition of a new member are subject to proration (see N.J.A.C. 10:82-2.2) based on the date of such change if all other eligibility factors are met.

1. Newborn child: The date of change for proration of an additional payment for a newborn child added to an eligible unit shall be the date the child was born.

2. Other member: The date of change for proration of an additional payment for other members added to an eligible unit shall be the date the eligible unit reports to the CWA the addition of the member.

Amended by R.1980 d.332, effective August 1, 1980.
See: 12 N.J.R. 320(c), 12 N.J.R. 484(b).

(a): Effective date of adjustment amended; example added.

Amended by R.1982 d.440, effective December 1, 1982.

See: 14 N.J.R. 1169(a), 14 N.J.R. 1461(a).

Originally filed as an emergency adoption (R.1983 d.367) on October 1, 1982. Readopted as R.1982 d.440. Additional payments subject to proration.

Amended by R.1986 d.471, effective December 1, 1986.

See: 18 N.J.R. 260(a), 18 N.J.R. 2388(b).

Substantially amended.

Amended by R.1992 d.261, effective June 15, 1992 (operative July 1, 1992).

See: 24 N.J.R. 1194(a), 24 N.J.R. 2258(a).

In (a): added text that adjustment must be effective: "no later than the first day of the month following the month in which the significant change in circumstance[s] occurred." Deleted references to monthly reporting.

Deleted subsection (d) referring to reduction or loss of income.

SUBCHAPTER 3. RESOURCES

10:82-3.1 General provisions

(a) The resource policy set forth in this subchapter applies equally to program applicants and recipients. State and Federal laws require that the agency consider all income and resources of the eligible unit in determining eligibility for AFDC and the amount of assistance to be granted. Available resources include cash and other forms of income immediately obtainable to meet the needs of the eligible unit (see N.J.A.C. 10:82-4).

(b) Resources as recognized in this subchapter are either exempt or countable. They are defined as real or personal property which is within the control of one or more members of the eligible unit, or to which the member(s) may have a valid claim, and certain benefits and other contributions of support which may become available.

(c) All countable resources shall be evaluated by their equity value; that is, the current market value of resource less encumbrances, if any.

(d) The total equity value of all countable resources (including savings) shall not exceed \$1,000.

(e) Savings may be retained by a family applying for or receiving AFDC and may be accrued from the AFDC payment or other income, except as provided in N.J.A.C. 10:82-4.15.

(f) "And"/"or" bank accounts are to be treated as follows:

1. For checking and savings accounts in which the names of the owners are stated in the conjunctive ("and" accounts), the eligible family member shall be presumed to possess the funds in proportion to the number of owners listed on the account. Such presumption is rebuttable and shall not apply if the eligible family member and/or the other owner(s) demonstrate to the CWA that actual ownership (based on the contributions by each of

the parties to the sums on deposit) of the funds is in a different proportion. For example, a disabled yet competent sibling sets up an "and" account with his or her healthy sibling. As this type of account usually requires the signatures of both parties for withdrawal purposes, the "and" account would allow the disabled sibling a measure of control and supervision of his or her finances. However, should two or more signatures be required to withdraw monies and another party to the account (that is, a non-client) is uncooperative, the account shall be considered an inaccessible resource. In the event any monies are subsequently withdrawn by the client through the cooperation of the other party, the funds withdrawn shall be treated as an available resource.

2. For checking and savings accounts in which the names of the owners are stated in the disjunctive ("or" accounts), the eligible family member shall be presumed to possess all the funds therein regardless of their source. Such presumption is rebuttable and shall not apply if the eligible family member and/or the other owner(s) demonstrate to the CWA that ownership of the funds is in a different proportion, predicated on contributions by each party to the sums on deposit. For example, an elderly parent wishing to ensure 100 percent accessibility of his or her funds to a child in case of sudden illness or incapacity may wish to set up an "or" account to allow for prompt payment of debts and expenses if the need arises.

3. If it can be demonstrated that funds in either type of account are not legally owned by an eligible family member, such funds shall not be counted toward the resource maximum. In such situations a signed statement attesting to the lack of ownership should be obtained from the eligible family member.

Amended by R.1980 d.451, effective November 1, 1980.

See: 12 N.J.R. 522(b), 12 N.J.R. 664(c).

(c) repealed.

Amended on an emergency basis, R.1981 d.396, effective September 30, 1981, exp. November 30, 1981. See: 13 N.J.R. 763(a). Readopted, R.1981 d.519, effective December 31, 1981. See: 13 N.J.R. 763(a), 14 N.J.R. 102(d).

(c) and (d) added.

Amended by R.1983 d.93, effective March 21, 1983.

See: 14 N.J.R. 1438(a), 15 N.J.R. 443(c).

(e) added, language concerning savings.

Amended by R.1986 d.471, effective December 1, 1986.

See: 18 N.J.R. 260(a), 18 N.J.R. 2388(b).

Substantially amended.

Amended by R.1991 d.603, effective December 16, 1991.

See: 23 N.J.R. 2625(a), 23 N.J.R. 3796(a).

Added new subsection (f).

Case Notes

All income and resources of eligible unit to be considered in determining amount of assistance. *Boyle v. Riti*, 175 N.J.Super. 158, 164, 417 A.2d 1091 (App.Div.1980).

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.

Initial eligibility for AFDC grant must be determined on all income available at any time during the month the application was received (Director's Final Decision) (Cited as N.J.A.C. 10:82-2.2). In the *Matter of P.B.*, 8 N.J.A.R. 329 (1980).

Contribution funds accumulated under provisions of the Post-Vietnam Era Veterans Assistance Program were not an educational grant or loan and must be liquidated as a nonexempt resource before becoming AFDC eligible. *L.D. v. Passaic Cty. Bd. of Social Services*, 7 N.J.A.R. 309 (1984).

In absence of trust account, money deposited in account in AFDC and Food Stamp recipient's name by a third person is an available resource to be considered in eligibility determination (Department's Final Decision). *Union Cty. Bd. of Social Services v. M.M.*, 6 N.J.A.R. 366 (1982).

Funds in joint checking account which constituted on 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).

10:82-3.2 Exempt resources

(a) Exempt resources are not subject to any requirement for liquidation and are not considered in determining the assistance grant. When any resource is not or is no longer exempt, it shall be evaluated as a countable resource in accordance with N.J.A.C. 10:82-3.1(c) and considered in the determination of eligibility for AFDC.

(b) The exempt resources are as follows:

1. Real property owned by the eligible unit and used as a home by the eligible unit, together with so much of the land on which the house stands as is reasonably necessary for the maintenance of the house. The property may remain in exempt status during temporary absence of the entire family for a period up to four months, at which time the agency shall review the status, and if so indicated, may allow it to remain in exempt status for an additional four months. Continued absence through the entire eight months shall be deemed to be permanent and the property shall be removed from exempt status.

2. Personal property which is used or likely to be used. Included are:

i. House furnishings and clothing in regular use: Furnishings and clothing in storage may be deemed to be exempt in the presence of a reasonable plan for their use;

ii. Personal effects if regularly used or of small intrinsic value: Items of exceptional value not regularly used and not essential to the physical health and safety of the eligible unit are not exempt.

3. One motor vehicle, the equity value of which does not exceed \$1,500. Any excess equity value of a motor vehicle and the full equity of any other motor vehicle is countable toward the \$1,000 resource limit. If the vehicle is especially equipped with apparatus for the disabled, the apparatus shall not increase the value of the vehicle. The equity value of a vehicle shall be the average wholesale value as indicated in the most recent April or October edition of the Red Book: Official Used Car Valuations, less encumbrances (legal debts).

i. An applicant or recipient may indicate that, for reasons such as, but not limited to, body damage or inoperability, a vehicle is in less than average condition. Any applicant or recipient who claims that the Red Book value does not apply to his or her vehicle shall be given the opportunity to acquire verification of the vehicle's value from another reliable source.

4. Livestock, machinery, tools, equipment, and stock-in-trade which serve to produce some net income in cash or in kind, or serve as an incentive for self-help. Livestock or property owned or used by a child in connection with a group or school activity (such as 4-H) is also exempt.

5. Any asset, real or personal, the liquidation of which would produce no net revenue to the eligible unit.

6. Resources designated for special purposes as follows:

i. Relocation adjustment payments which are made pursuant to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) by the public agencies and area development agencies engaged in urban renewal, or by housing development projects;

ii. Any Highway Relocation Assistance paid under the Federal-Aid Highway Act of 1968;

iii. For any household participating in the Food Stamp program of the United States Department of Agriculture, the value of the coupon allotment;

iv. In AFDC, payments for participation in the REACH program, including payments for transportation and related expenses set forth at N.J.A.C. 10:81-14.19 and payments for child care at N.J.A.C. 10:81-14.18.

(1) A weekly allowance of \$30.00 paid to recipients of AFDC who are participants in the Job Training Partnership Act (JTPA) training programs.

v. Child care payments for "special circumstance" children (see N.J.A.C. 10:82-5.2) and transportation or the cost of transportation, which is not available from any other source, to transport the "special circumstance" child to and from the child care site when it is essential for the child's physical health and safety. The payment for the cost of transporting a "special circumstance" child to and from the child care site may be authorized under Title IV-A funds through FAMIS.

vi. Supplemental aid by other agencies or organizations, whether public or private, provided that:

(1) There is no duplication between such aid and the public assistance grant;

(2) Such aid is for a special purpose not within the function of the public assistance agency (for example, vocational rehabilitation); or

(3) Such aid is to any undergraduate student for educational purposes.

vii. Any income received through the subsidized adoption program of the Division of Youth and Family Services pursuant to N.J.S.A. 30:4C-45 through 49 (P.L. 1973 C81).

viii. Certain other Federal programs: Funds received by applicants and recipients through certain Federal programs (see (b)6vii(1) through (9) below) shall be regarded as exempt resources in determining eligibility for assistance.

(1) Funds distributed or held in trust for members of any Indian tribe under Public Law 92-254 or 93-134; and

(2) Funds which are tax-exempt portions of payments made pursuant to Public Law 92-203, the Alaska Native Claims Settlement Act;

(3) Benefits or assistance received through the WIC program (special supplemental food program for women, infants and children) and the special food services program for children under the National School Lunch Act as amended by Public Laws 92-433 and 93-150;

(4) Benefits received under Title VII, Nutrition Program for the Elderly, of Older Americans Act of 1965;

(5) Payments made through Service Corps of Retired Executives (SCORE), Active Corps of Executives (ACE), and payments made under Title I of P.L. 93-113 (for example, Volunteers in Service to America—VISTA);

(6) Payments received under the Experimental Housing Assistance Program (EHAP) made under annual contribution's contracts entered into prior to January 1, 1975, under section 23 of the United States Housing Act of 1937;

(7) Payments made through the United States Department of Housing and Urban Development (HUD) Section 8, Rental Assistance Program (RAP), which provides funds to certain disabled individuals and low income families to assist them in meeting shelter costs.

(8) HUD community development block grant funds under Title I of the Housing and Community Development Act of 1974.

(9) Benefits received by eligible households under the Low Income Home Energy Assistance Act of 1981 pursuant to section 2605(f) of Public Law 97-35.

ix. Stipends received by individuals who participate in the New Jersey Youth Corps Stipends Program shall be treated as an exempt resource and not counted in

the determination of AFDC eligibility nor in the calculation of grant entitlement.

7. Occasional nonrecurring gifts and contributions of nominal amount or value, such as those for birthdays, graduations, Christmas or other holidays, to the extent the value does not exceed an average of \$30.00 per recipient in any calendar quarter.

i. In cases where such gifts and contributions exceed an average of \$30.00 per recipient in any calendar quarter, that excess shall be counted as unearned income.

ii. In determining value, a gift received by one member of the eligible unit but intended for the entire eligible unit may be allocated among the eligible unit members in the way most advantageous to the entire unit.

8. Loans:

i. Loans for specific purposes:

(1) Loans and grants which are not to be used to meet current living costs and which are held and used in accordance with the conditions of the loan are exempt. Examples are:

(A) Loans made by the Farmers Home Administration, U.S. Department of Agriculture, under Title III of the Economic Opportunity Act, and loans made by the Farmers Home Administration under provisions in Title V of the Housing Act of 1949, as amended.

ii. Personal loans are exempt when such loans are evidenced by a document, signed by the client and the lender, which states the amount of the loan and terms of repayment.

9. Funds received in repayment of verified costs of collection of a pending claim when the costs were incurred during a period of receipt of AFDC (see N.J.A.C. 10:81-3.41(a)).

10. Value of home produce: Farm and garden products raised by the eligible unit for its own use.

11. Burial plots and funeral agreements: Burial plots (limited to one for each member of the eligible unit) and bona fide funeral agreements to the extent that the equity value of any agreement does not exceed \$1,500 for each member of the eligible unit.

i. Burial plots are conventional gravesites, crypts, mausoleums, urns or other repositories which are customarily and traditionally used for the remains of deceased persons.

ii. Funeral agreements are contractual arrangements to provide for the costs connected with burial, cremation, or other funeral arrangements.

Amended by R.1977 d.229, effective July 1, 1977.

See: 9 N.J.R. 222(d), 9 N.J.R. 370(c).
Amended by R.1977 d.431, effective December 1, 1977.

See: 9 N.J.R. 431(d), 9 N.J.R. 584(b).

Amended by R.1978 d.157, effective June 1, 1978.

See: 10 N.J.R. 113(a), 10 N.J.R. 255(b).

Amended by R.1978 d.438, effective February 1, 1979.

See: 10 N.J.R. 487(b), 11 N.J.R. 75(a).

Amended by R.1980 d.383, effective September 8, 1980.

See: 12 N.J.R. 414(a), 12 N.J.R. 599(b).

(b)4 amended to include burial plots.

Amended by R.1980 d.442, effective November 1, 1980.

See: 12 N.J.R. 534(a), 12 N.J.R. 663(d).

(b)7vi and (b)8: "specific purpose" language removed.

See: N.J.A.C. 10:82-4.15(a).

Amended by R.1981 d.96, effective April 9, 1981.

See: 13 N.J.R. 96(a), 13 N.J.R. 227(b).

(b)7viii(8) added.

Amended by R.1981 d.282, effective August 6, 1981.

See: 13 N.J.R. 224(b), 13 N.J.R. 499(a).

(b)7iii: delete "in excess of amount paid by the household by such allotment" after" . . . of the coupon allotment."

Amended on an emergency basis R.1981 d.396, effective September 30, 1981, exp. November 30, 1981. See: 13 N.J.R. 763(a). Readopted, R.1981 d.519, effective December 31, 1981. See: 13 N.J.R. 763(a), 14 N.J.R. 102(d).

(b)3 through 3iv deleted; new text for (b)3 added; (b)4 deleted; Renumbered (b)5-11 as (b)4-10.

Amended by R.1983 d.93, effective March 21, 1983.

See: 14 N.J.R. 1438(a), 15 N.J.R. 433(c).

(b)3: Equity value of auto not to exceed, formerly \$1,200 to \$1,500 as amended.

Amended by R.1983 d.504, effective November 7, 1983.

See: 15 N.J.R. 1431(a), 15 N.J.R. 1865(a).

Increase from \$200.00 to \$500.00 amount that can be recognized by CWA as incidental expenses.

Amended as emergency rule R.1984 d.463, effective September 28, 1984 (operative October 1, 1984).

See: 16 N.J.R. 486(a), 16 N.J.R. 2837(a).

(b)11 added. Amendments in (b)1-(b)10. Proposed in 16 N.J.R. 486(a).

Readopted, R.1984 d.568, effective November 28, 1984.

See: 16 N.J.R. 2837(a), 16 N.J.R. 3442(a).

Was previously filed as emergency amendment R.1984 d.463.

Correction: Inserted corrected text in (a)6vi, 7 and 9. The new text was prepared but never adopted.

See: 17 N.J.R. 1143(b).

Amended by R.1985 d.709, effective January 21, 1986 (operative February 1, 1986).

See: 17 N.J.R. 2518(b), 18 N.J.R. 192(a).

(b)3i added.

Amended by R.1986 d.471, effective December 1, 1986.

See: 18 N.J.R. 260(a), 18 N.J.R. 2388(b).

Substantially amended.

Amended by R.1987 d.285, effective July 20, 1987.

See: 19 N.J.R. 344(a), 19 N.J.R. 1317(a).

Added (b)6vii(a). Added text in (b)7 "to the extent . . . any calendar quarter" added (c)7i.

Amended by R.1987 d.330, effective August 17, 1987.

See: 19 N.J.R. 709(a), 19 N.J.R. 1559(c).

Added (b)6v(3) and deleted (b)8i(2).

Amended by R.1988 d.424, effective September 6, 1988.

See: 20 N.J.R. 1059(a), 20 N.J.R. 2292(b).

Deleted old text in (b)9 and substituted new.

Amended by R.1989 d.497, effective September 18, 1989.

See: 21 N.J.R. 1811(a), 21 N.J.R. 3014(a).

Clarification of citations added.

Amended by R.1991 d.7, effective January 7, 1991.

See: 22 N.J.R. 2445(a), 23 N.J.R. 93(a).

In (b)6.iv.: added text regarding REACH program.

Deleted (b)6iv(1) on WIN requirements and recodified (b)6iv(2) as new (1). Added new (b)6v. and recodified v. through vii. as vi. through viii.

Administrative correction.

See: 25 N.J.R. 4597(b).

Amended by R.1994 d.430, effective August 15, 1994.
See: 26 N.J.R. 1584(a), 26 N.J.R. 3483(a).

Case Notes

Net recovery in a personal injury action obtained before commencement of assistance is a factor in determining program eligibility; agreement for assistance repayment valid and enforceable; repayment obligation runs from date of agreement rather than date of injury judgment; welfare board not chargeable with pro rata share of injury litigation counsel fee. In re: Guardianship of Jones, 170 N.J.Super. 478, 406 A.2d 1331 (App.Div.1979), certification denied 82 N.J. 290, 412 A.2d 797 (1980).

Contribution funds accumulated under provisions of the Post-Vietnam Era Veterans Assistance Program were not an educational grant or loan and must be liquidated as a nonexempt resource before becoming AFDC eligible. L.D. v. Passaic Cty. Bd. of Social Services, 7 N.J.A.R. 309 (1984).

Regulations in N.J.A.C. 10:82 regarding loans inapplicable to Food Stamp dispute by provision of N.J.A.C. 10:87-1.5. In re: S.C., 6 N.J.A.R. 333 (1981).

Termination of AFDC benefits due to possession of automobile valued in excess of resource exemption reversed because of agency failure to notify recipient of opportunity to liquidate resource under former N.J.A.C. 10:82-3.4 and 3.5; required valuation method improperly applied. Burlington Cty. Welfare Agency v. E.G., 3 N.J.A.R. 174 (1982).

10:82-3.3 (Reserved)

Amended as emergency rule, R.1984 d.463, effective September 28, 1984 (operative October 1, 1984).

See: 16 N.J.R. 2837(a).

This rule defined potential resources.

Readopted, R.1984 d.568, eff. November 28, 1984.

See: 16 N.J.R. 2837(a), 16 N.J.R. 3442(a).

Was previously filed as emergency amendment R.1984 d.463.

Case Notes

Initial eligibility for AFDC grant must be determined on all income available at any time during the month the application was received (Director's Final Decision). In the Matter of P.B., 8 N.J.A.R. 329 (1980).

10:82-3.4 (Reserved)

Amended, R.1983 d.93, effective March 21, 1983.

See: 14 N.J.R. 1438(a), 15 N.J.R. 443(c).

Language added concerning liquidation of resources in excess of \$1,000.

Amended as emergency rule R.1984 d.463, effective September 28, 1984 (operative October 1, 1984).

See: 16 N.J.R. 2837(a).

This rule was concerned with principals affecting potential resources.

Readopted, R.1984 d.568, effective November 29, 1984.

See: 16 N.J.R. 2837(a), 16 N.J.R. 3442(a).

Was previously filed as emergency rule.

Case Notes

Termination of AFDC benefits due to possession of automobile valued in excess of resource exemption reversed because of agency failure to notify recipient of opportunity to liquidate resource under former N.J.A.C. 10:82-3.4 and 3.5; required valuation method improperly applied. Burlington Cty. Welfare Agency v. E.G., 3 N.J.A.R. 174 (1982).

10:82-3.5 (Reserved)

Amended as emergency rule, R.1984 d.463, effective September 28, 1984 (operative October 1, 1984).

See: 16 N.J.R. 2837(a).

This rule was concerned with Responsibilities regarding potential resources.

Case Notes

Termination of AFDC benefits due to possession of automobile valued in excess of resource exemption reversed because of agency failure to notify recipient of opportunity to liquidate valuation method improperly applied. Burlington Cty. Welfare Agency v. E.G., 3 N.J.A.R. 174 (1982).

Former regulation required written notice to individuals who are requested or required to liquidate a resource. "C.B." v. Essex Cty. Div. of Public Welfare, 1 N.J.A.R. 68 (1981).

10:82-3.6 (Reserved)

Amended as emergency rule, R.1984 d.463, effective September 28, 1984 (operative October 1, 1984).

See: 16 N.J.R. 2837(a).

Old section deleted, new text substituted therefor.

Readopted, R.1984 d.568, effective November 28, 1984.

See: 16 N.J.R. 2837(a), 16 N.J.R. 3442(a).

Was previously filed as emergency rule.

Repealed by R.1988 d.424, effective September 6, 1988.

See: 20 N.J.R. 1059(a), 20 N.J.R. 2292(b).

Section was "Liquidation of nonexempt real property".

10:82-3.7 (Reserved)

Amended by R.1980 d.120, effective March 19, 1980.

See: 12 N.J.R. 28(a), 12 N.J.R. 194(e).

(a)4i: Added cross-reference to N.J.A.C. 10:81-3.41(a)2.

(a)4ii: Added exceptions and made nonsubstantive language changes.

Amended as emergency rule, R.1984 d.463, effective September 28, 1984 (operative October 1, 1984).

See: 16 N.J.R. 2837(a).

(a) through (a)3 deleted; (a)4 changed to (a); renumber i.-iii. as 1.-3.

Readopted, R.1984 d.568, effective November 28, 1984.

See: 16 N.J.R. 2837(a), 16 N.J.R. 3442(a).

Previously filed as emergency rule.

Repealed by R.1988 d.424, effective September 6, 1988.

See: 20 N.J.R. 1059(a), 20 N.J.R. 2292(b).

Section was "Suits and claims".

Case Notes

Statutory amendment excluding child's claim for personal injuries as a source of repayment to welfare agency given retroactive effect to infants injured prior to amendment. Hart v. Fox, 204 N.J.Super. 564, 499 A.2d 553 (Law Div.1985).

Net recovery in a personal injury action obtained before commencement of assistance is a factor in determining program eligibility; agreement for assistance repayment valid and enforceable; repayment obligation runs from date of agreement rather than date of injury judgment; welfare board not chargeable with pro rata share of injury litigation counsel fee. In re: Guardianship of Jones, 170 N.J.Super. 478 (App.Div.1979), certification denied 82 290, 412 A.2d 797 (1980).

Suit or claim arising from an accident to be considered a resource. In re Estate of Jackson, 79 N.J. 517, 524, 401 A.2d 517 (1979).

10:82-3.8 Relative as a resource

(a) The following table indicates the legally responsible relatives (LRRs) in each program to whom the policies and standards in this section apply:

Legally responsible relative	Program	
	AFDC	MA
Spouse	x	x
Child under age 55	x	
Any parent of a child under 18 or of a child over 18 who is not an AFDC parent or parent-person	x	x

As amended, R.1978 d.157, eff. June 1, 1978.

See: 10 N.J.R. 113(a), 10 N.J.R. 255(b).

As amended, R.1979 d.427, eff. December 1, 1979.

See: 11 N.J.R. 446(b), 11 N.J.R. 560(c).

As amended, R.1982 d.353, eff. October 18, 1982.

See: 14 N.J.R. 814(b), 14 N.J.R. 1161(d).

Change from 21 years to 18 years of age as legal requirement for support by relative. Reflects change in law.

10:82-3.9 Available support

(a) The CWA IV-A unit shall determine what contributions, whether in cash or in kind, the relative is currently contributing or is willing to contribute toward the support of the eligible unit.

1. Only the amount of support, whether in cash or in kind, actually being received by the eligible unit shall be considered as available income.

2. When an LRR fails to make available to the eligible unit the amount of the contribution for support as determined by the following methods, such support shall then be considered as a potential resource.

(b) It shall be recognized that a person's obligation to support those relatives for whom he/she is legally responsible takes precedence over any voluntary preference on his/her part to support relatives or other persons for whom he/she is not legally responsible, except as provided in section 11 of this subchapter.

1. Responsibility of a person for the support of his/her own minor children takes priority over any obligations to contribute to support of any other dependent relatives.

(c) When a relative is legally responsible for all members of an eligible unit, this LRR's financial capacity to support shall be considered as a resource to the eligible unit as a whole.

1. When a relative is legally responsible for one or more, but not all member(s) of the eligible unit, the LRR's obligation to support in relation to need shall be the per capita share of the eligible unit's adjusted allowance for those persons for whom he/she is legally responsible.

2. When a relative is legally responsible for two or more persons who are not members of the same eligible unit, his/her capacity to support may be allocated according to the relative's wishes, provided that the amount allocated to any one individual does not exceed that individual's share of the adjusted allowance.

(d) The eligible unit ceases to be eligible for assistance when the amount of the LRR's evaluated capacity to support equals or exceeds their adjusted allowance and this support is actually to the eligible unit.

1. The amount of the LRR's contribution shall be recognized only when there is affirmative evidence that such amount or its equivalent in goods or services is in fact available to members of the eligible unit.

2. When a LRR fails or refuses to make available to the eligible unit all or any portion of his/her contribution, and this has been verified, such amount shall not be entered as income on the PA-3A form. (See PAM 3842 for agency action in such case.)

(e) Where it is determined that an LRR does not have a capacity to contribute to support, any cash contribution which he/she voluntarily makes on a regular basis is recognized as unearned income.

(f) Absent parent: To determine the capacity of an absent parent to support his or her dependent children, the procedures at N.J.A.C. 10:81-11.18 shall be followed by the CWA IV-D unit.

As amended, R.1984 d.242, eff. June 18, 1984 (Operative July 1, 1984).

See: 16 N.J.R. 829(a), 16 N.J.R. 1607(a).

Amended by R.1986 d.115, effective April 7, 1986 (operative May 1, 1986).

See: 18 N.J.R. 20(b), 18 N.J.R. 689(b).

Substantially amended.

Case Notes

Available income. Schmidt v. N.J. Dept. of Institutions and Agencies, 147 N.J.Super. 150, 153, 370 A.2d 892 (App.Div.1977) (regulation cited as ASH § 332.1(a)).

10:82-3.10 Evaluating LRR's capacity to support

(a) The LRR's capacity to support shall be based on his/her total gross monthly income, including all income of whatever kind and from whatever source except as stated in this section.

(b) Income determination rules are:

1. "Gross income" means income before deductions, or the net profit from a business, farm or profession before income and other personal taxes are deducted. "Net profit" is the total revenue less the cost of producing the revenue. Business deductions which are allowable for income tax purposes may be recognized as expenses of producing this revenue.

2. The average income for the most recent period of four months may be accepted as satisfactory evidence of the average for the last year, but the income record for the entire 12-month period may be considered if the individual so requests and makes the necessary information available.

3. Income in the form of maintenance: When an LRR is receiving food or lodging or both as part of his/her income, the total gross income shall be determined as follows:

LRR's family size	Monthly medical expenses
1	\$ 45
2	60
3	75
4	90
5	100
6 or more	110

i. The gross cash payment plus the monetary value of the maintenance received as used by the employer for tax purposes (the employer's monetary evaluation for payment of Social Security and withholding taxes).

4. Income from roomer-boarder in LRR's home: When an LRR has roomer-boarders living in the home, N.J.A.C. 10:82-4.3(c) or 4.12 shall be used to determine the net income to the LRR from such roomers or roomer-boarders.

5. Income from LRR in the home of the eligible unit: When an LRR, other than a natural or adoptive parent, is living in the home of an eligible unit and makes payment to the eligible unit toward household expenses, that payment shall be treated as income available to the eligible unit in accordance with N.J.A.C. 10:82-4.3(c), if extensive personal services are provided, or N.J.A.C. 10:82-4.12. Such payment does not otherwise affect the LRR's evaluated capacity, if any, to contribute to support.

6. Emancipated child in LRR's home: When an LRR has an emancipated child living in the home, such child shall be considered as a roomer-boarder, and N.J.A.C. 10:82-2.4 shall be used to determine the net income to the LRR.

(c) Whenever an LRR or his/her dependents are the recipients of benefits, current or accrued, which are granted for and restricted to a specific purpose in accordance with the requirements of the law or contract under which they are provided, such as education, relocation, rehabilitation, medical care, and so forth, such benefits shall not be included in the income of the LRR for the purpose of computing his or her evaluated capacity to support.

(d) The following types of extraordinary expenses shall be considered in the manner specified, as affecting the LRR's capacity to contribute to the support of the eligible unit.

1. LRR's contribution to persons other than the eligible unit: When an LRR is supporting or making contributions to support (including judicial orders for support) of a parent, child, separated or divorced spouse who is not living in the home of the LRR, the actual amount of such contribution shall be subtracted from the LRR's gross monthly income. These persons shall not be included in the determination of the LRR's family size.

2. Excessive medical expenses: Where the average monthly costs of medical, dental, and so forth, services exceeds the appropriate amount shown in the following schedule of medical expenses, the amount of the excess shall be subtracted from the LRR's gross monthly income:

3. Indebtedness due to catastrophic events: When an LRR, whether before or following the determination of his/her capacity to support, is required to incur debts due to catastrophic events over which the LRR had no control (for example: fire, flood, and so forth), other than medical, the verified monthly amount of payments necessary to liquidate these debts shall be subtracted from his/her gross monthly income.

i. Whenever an LRR has been determined not to have a capacity to support for a specified period in order to liquidate indebtedness due to catastrophic events, the agency shall reevaluate the LRR's capacity to support at the date set for full payment of the debt.

4. Educational expenses: If the LRR is providing educational expenses for one or more of his/her dependents for whom free educational facilities are not available, such expenses shall be deducted from the LRR's gross monthly income as follows:

i. When the individual is being maintained in the LRR's home, subtract the verified cost of tuition, fees, books and transportation, prorated on a 12-month basis.

ii. When the individual is being maintained away from home, subtract the above items plus any cost of maintenance in excess of \$1,075 per annum, prorated on a 12-month basis.

As amended, R.1979 d.108, eff. March 15, 1979.
 See: 10 N.J.R. 538(a), 11 N.J.R. 196(c).
 As amended, R.1983 d.318, eff. July 20, 1983.
 See: 15 N.J.R. 935(a), 15 N.J.R. 1377(a).
 Lead in text added at (b)6.
 Amended by R.1986 d.470, effective December 1, 1986.
 See: 18 N.J.R. 928(a), 18 N.J.R. 2388(b).

10:82-3.11 Determining amount of support

(a) Monthly income standards: Two sets of standards provide the basis for evaluation of an LRR's capacity to contribute to the support of the eligible unit:

1. Schedule IV-A applies to any natural or adoptive parent of eligible AFDC children who is not a member of the eligible unit (exception: when a stepparent is providing a parent's needs). The monthly income standard is derived from the applicable assistance standard plus average medical costs and the standard allowance for expenses of employment.

2. Schedule IV-B applies to all other legally responsible relatives, including parents of adolescent parents not living in the same home as the adolescent parent, and is

based on the U.S. Bureau of Labor Statistics' moderate standard of living.

(b) Family size of the LRR shall include the following persons, except those who are members of the eligible unit;

1. The LRR and any of his/her minor children who are living with the LRR;
2. The LRR's spouse who is living with him/her;
3. Any relative of the LRR or of his/her spouse who is and has been customarily living in LRR's home and for whom the LRR or spouse is providing at least one half the support.

(c) When the LRR is married and both the LRR and his/her spouse have income, consider the LRR's income only, including in the family size only the LRR and his/her minor children. (See subsection (b) of this section.)

1. When both persons are LRR's consider their total income and include all persons identified in subsection (b) of this section in the family size.

(d) The method for determining capacity to support is:

1. Determine the LRR's gross monthly income, including both earned and unearned income;
2. Deduct the verified amount of extraordinary expenses as identified in N.J.A.C. 10:82-3.10(d);
3. Compare this adjusted income with the applicable monthly income standard on Schedule IV, part A or part B;
4. When the LRR's adjusted income is less than the applicable standard on the schedule, no capacity to support exists;
5. When the LRR's adjusted income exceeds the applicable standard, the amount derived from Schedule V shall be the evaluated contribution for support of the eligible unit.

6. The LRR's obligatory contribution shall not exceed the per capita share of the eligible unit's adjusted allowance for the person(s) for whom the LRR is liable.

Schedule IV—Monthly Income Standards

Part A Parents of AFDC children	Family size	Part B All other LRR's
\$ 405	1	\$1120
540	2	1560
675	3	2010
740	4	2455
810	5	2825
875	6	3125
945	7	3420
1015	8	3720
plus \$70	Each additional person	plus \$300

Schedule V

Table

for establishing LRR's contribution for support

Determine the difference between the LRR's adjusted income and the applicable monthly income standard on schedule IV. In the table below find the amount of this difference. The corresponding amount appropriate for the number of persons in the eligible unit for whom the LRR is responsible is the contribution to be made by the LRR.

Persons for Whom LRR is Responsible

Excess Income	1	2	3	4	5+
\$ 1-215	\$ 65	\$ 65	\$ 65	\$ 65	\$ 65
216-325	65	65	65	65	85
326-435	65	65	85	110	110
436-540	65	110	110	130	150
541-650	85	130	150	175	195
651-760	110	150	175	195	240
761-865	130	175	260	240	280
866-975	150	215	260	280	325
976-1085	175	260	305	325	370
1086-1190	195	280	325	370	435
1191-1300	215	325	370	435	475
1301-1410	240	345	410	475	540
1411-1515	260	390	455	520	584
1516-1625	280	435	520	585	650
1626-1735	325	475	565	630	715
1736-1840	345	520	605	695	780
1841-1950	390	565	670	760	845
1951 +	20% of adjusted income	29% of adjusted income	34% of adjusted income	39% of adjusted income	43% of adjusted income

As amended, R.1979 d.108, eff. March 15, 1979.
 See: 10 N.J.R. 538(a), 11 N.J.R. 196(c).
 As amended, R.1984, d.242, eff. July 18, 1984 (operative July 1, 1984).
 See: 16 N.J.R. 829(a), 16 N.J.R. 1607(a), 17 N.J.R. 2691(a).
 Section substantially amended.
 Amended by R.1985 d.341, effective July 1, 1985 (operative July 1, 1985).
 See: 17 N.J.R. 880(a), 17 N.J.R. 1656(a).
 Tables changed.
 Amended by R.1986 d.115, effective April 7, 1986 (operative May 1, 1986).
 See: 18 N.J.R. 20(b), 18 N.J.R. 689(b).
 Added text in (a)2: "including parents of ... the adolescent parent."

10:82-3.12 Acceptable forms of support

(a) The LRR may fulfill his/her obligation to support the person or persons for whom he/she is responsible by contributing one or more of the following:

1. Cash;
2. Shelter and household needs;
3. Any other item determined to be mutually satisfactory to the client and the county welfare agency for which equitable monetary value can be clearly established.

(b) When a contribution other than cash is substantial, regular and reliable, the monetary value shall be deducted from the monthly amount of the LRR's capacity to support. Such contribution must be acceptable to the eligible unit, except when ordered by the courts.

(c) When an LRR who has a capacity to support is providing shelter and household needs, whether in his/her own home or elsewhere, the payment for such arrangement is neither made directly to the client nor stipulated by court order to be made in an identifiable cash amount to a third party, the monthly monetary values shall be recognized according to Schedule VI, but shall not exceed the LRR's evaluated capacity.

Schedule VI

Shelter and Household Needs

Number in eligible unit for whom shelter is provided	Monthly monetary value
1	\$100
2	110
3	120
4	130
5	140
6	150
7 or more	160

10:82-3.13 Eligibility of sponsored aliens and deeming of sponsor's income and resources to a sponsored alien

(a) The income and resources of an alien's sponsor shall be deemed to be unearned income and resources of an alien applying for AFDC for the first time after September 30, 1981 for a period of three years following the alien's entry into the United States. For purposes of this section, a sponsor is an individual, a public or private agency or organization who executed an affidavit of support or similar agreement on behalf of an alien (who is not the child of the sponsor or the sponsor's spouse) as a condition of the alien's entry into the United States. No income or resources shall be deemed from a sponsor who is (or whose spouse is) receiving AFDC or SSI.

1. These deeming provisions do not apply to any alien who is:

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

ii. Admitted as a refugee to the United States as a result of the application of the provisions of section 207(c) (in effect after March 31, 1980) of the Immigration and Nationality Act;

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

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

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

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

vii. An Amerasian admitted under Section 584 of the Foreign Operations Appropriations Act (P.L. 100-202) beginning March 20, 1988.

2. Any alien subject to these deeming provisions who was sponsored by a public or private agency or organization shall be ineligible for public assistance for a period of three years following his or her entry into the United States unless the agency no longer exists or has been declared bankrupt by a court of appropriate jurisdiction.

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

1. The sponsor's total monthly wages, salaries, and net earnings from self-employment (and that of his or her spouse if living with the sponsor) shall be reduced by 20 percent (not to exceed \$175.00).

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

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

i. The appropriate amount from the Standard of Need (N.J.A.C. 10:82-1.1A) for the sponsor, spouse, and other persons residing in his or her household who are or could be claimed by the sponsor as dependents for determination of Federal personal income tax liability and who are not recipients of AFDC-C, -F or -N;

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

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

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

5. Medicaid eligibility shall be evaluated without consideration of the deemed income or resources (see N.J.A.C. 10:81-8.22(a)).

(c) The amount of resources of the sponsor (and the sponsor's spouse if living with the sponsor) shall be determined in accordance with the provisions of this subchapter excepting N.J.A.C. 10:82-3.10 through 3.12. The value of the sponsor's resources shall be reduced by \$1,500 and the remaining amount shall be deemed available to the alien

and counted in the determination of eligibility and payment level.

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

(e) Eligibility and reporting of income and resources: For a period of three years following entry for permanent residence into the United States, the sponsored alien who is not exempt from deeming under (a)1. above shall provide the CWA with any information and documentation necessary to determine the income and resources of the sponsor and the sponsor's spouse (if applicable and if living with the sponsor) that can be deemed available to the alien, and obtain any cooperation necessary from the sponsor.

1. Change in circumstances and deeming: If the alien's circumstances change during the three-year period such that the alien is no longer exempt from or subject to deeming in accordance with (a)1i through vi above, the CWA shall reflect the resulting change in unearned income in the assistance payment.

2. Ineligibility: A sponsored alien is ineligible in any month in which adequate information concerning the income and resources of the sponsor or sponsor's spouse (if living with the sponsor) is not provided, regardless of the reason the alien failed to provide the information.

3. Un-sponsored family members: Un-sponsored family members are not ineligible if a sponsored alien fails to provide information concerning the sponsor or sponsor's spouse (if living with the sponsor). However, any income the un-sponsored family members actually receive from the sponsor must be reported and considered in determining their eligibility.

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

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

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

2. Overpayment recovery: An overpayment for which the alien or the sponsor and the alien are liable as described above shall be repaid to the CWA or recovered in accordance with the provisions of N.J.A.C. 10:82-2.19. If the CWA is unable to recover the overpayment through this method, the overpayment shall be withheld from future payments to which the alien or the alien and the individual sponsor are entitled under:

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

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

Emergency new rule, R.1981 d.396, effective September 30, 1981, exp. November 30, 1981.

See: 13 N.J.R. 763(a). Readopted R.1981 d.519, effective December 31, 1981. See: 13 N.J.R. 763(a), 14 N.J.R. 102(d).

As amended, R.1982 d.443, effective December 20, 1982.

See: 14 N.J.R. 952(a), 14 N.J.R. 1459(b).

Clarified the situations for which an alien sponsor's income and resources are deemed to the AFDC family.

Amended by emergency rule, R.1984 d.463, effective September 28, 1984 (operative October 1, 1984).

See: 16 N.J.R. 2837(a).

Section substantially amended.

Readopted, R.1984 d.568, effective November 28, 1984.

See: 16 N.J.R. 2837(a), 16 N.J.R. 3442(a).

Was previously filed as emergency amendment R.1984 d.463.

Amended by R.1985 d.491, effective October 7, 1985.

See: 17 N.J.R. 1523(a), 17 N.J.R. 2440(a).

Substantive changes.

Amended by R.1989 d.497, effective September 18, 1989.

See: 21 N.J.R. 1811(a), 21 N.J.R. 3014(a).

Alien categories expanded; Medicaid eligibility to be evaluated without consideration of deemed income or resources.

Amended by R.1992 d.261, effective June 15, 1992 (operative July 1, 1992).

See: 24 N.J.R. 1194(a), 24 N.J.R. 2258(a).

In (b)3i, deleted Schedule I reference and added reference to Standard of Need and N-segment.

10:82-3.14 Deeming income of parents of adolescent parents

(a) Pursuant to the Tax Reform Act of 1986 (P.L. 99-514), which clarifies certain amendments of the Deficit Reduction Act of 1984 (P.L. 98-369), an adolescent parent is an individual under the age of 18 and who is himself or herself a parent of a dependent child.

(b) When an adolescent parent lives in the same home as his or her own parent(s), the income of such parent(s) shall be considered available to the eligible family in accordance with the following procedures. These rules do not apply if the parent(s) receive(s) SSI or AFDC or if the adolescent parent is categorically eligible for the -N segment only.

1. Reduce the gross earned income (and net income from self-employment) of each employed parent by \$90.00.

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

3. Further reduce the remaining income by the appropriate amount from the Standard of Need (N.J.A.C. 10:82-1.1A) for the parent(s) and any other individuals residing in the household who are or could be claimed by the parent(s) as dependents for Federal personal income tax liability and who are not recipients of AFDC-C, -F or -N.

4. The remaining income shall be further reduced by amounts paid by the parent(s) to individuals not living in the household who are or could be claimed by him or her as dependents for purposes of determining his or her Federal personal income tax liability.

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

6. All income remaining shall be counted as unearned income available to the eligible unit and shall be counted toward total income (N.J.A.C. 10:82-1.2) and in the determination of grant amount.

i. In the event the eligible family unit is determined financially ineligible for AFDC cash assistance due to the inclusion of such deemed income, Medicaid eligibility for the dependent child(ren) of the adolescent parent shall be determined in accordance with N.J.A.C. 10:81-8.22(a)3.

(c) If the adolescent parent does not live in the same home as his or her parents, the legally responsible relative provisions of N.J.A.C. 10:82-3.8 apply, and Schedule IV-B of N.J.A.C. 10:82-3.11(d) shall apply.

New Rule as emergency rule, R.1984 d.463, effective September 28, 1984 (operative October 1, 1984).

See: 16 N.J.R. 2837(a).

Readopted, R.1984 d.568, effective November 28, 1984 (amendment effective December 16, 1984).

See: 16 N.J.R. 2837(a), 16 N.J.R. 3442(a).

Previously filed as emergency rule R.1984 d.463.

Section substantially amended.

Amended by R.1986 d.115, effective April 7, 1986 (operative May 1, 1986).

See: 18 N.J.R. 20(b), 18 N.J.R. 689(b).

Added text in (c) "and Schedule IV-B of N.J.A.C. 10:82-3.11(d) shall apply."

Amended by R.1989 d.497, effective September 18, 1989.

See: 21 N.J.R. 1811(a), 21 N.J.R. 3014(a).

Definition of adolescent parent conformed to the Federal Deficit Reduction Act of 1984.

Amended by R.1992 d.261, effective June 15, 1992 (operative July 1, 1992).

See: 24 N.J.R. 1194(a), 24 N.J.R. 2258(a).

In (b)1, revised reduction amount of gross earned income from "\$75.00" to "\$90.00." In (b)3: added reference to Standard of Need and N-segment. In (b)6, revised N.J.A.C. citation.

Amended by R.1993 d.566, effective November 15, 1993.

See: 25 N.J.R. 2819(a), 25 N.J.R. 5168(a).

Amended by R.1994 d.430, effective August 15, 1994.

See: 26 N.J.R. 1584(a), 26 N.J.R. 3483(a).

Administrative Correction.

See: 26 N.J.R. 4765(a).

Case Notes

Public assistance allowance standard used to determine maternal grandmother's deemed income. *M.R. v. Mercer County Welfare Agency*, 93 N.J.A.R.2d (DEA) 5.

SUBCHAPTER 4. INCOME

10:82-4.1 General provisions

(a) Income must be in cash or in some other form readily available to meet the needs of the eligible unit. Immediate need demonstrated by an otherwise eligible unit will be met by assistance payments until other resources are in fact actually available.

(b) Income may be earned, unearned or in the form of contributions (see N.J.A.C. 10:82-4.2, 4.10, and 4.13).

(c) Earned income shall not include the amount of Earned Income Credit payment which an individual receives.

Amended on an emergency basis, R.1981 d.396, effective September 30, 1981 (operative October 1, 1981), exp. November 30, 1981.

See: 13 N.J.R. 763(a).

Readopted, R.1981 d.519, effective December 31, 1981.

See: 13 N.J.R. 763(a), 14 N.J.R. 102(d).

(c) through (c)3 added.

Amended by R.1982 d.443, effective December 20, 1982.

See: 14 N.J.R. 952(a), 14 N.J.R. 1459(b).

Revised language concerning Earned Income Tax Credits to reflect new Federal rules.

Amended as emergency rule, R.1984 d.463, effective September 28, 1984 (operative October 1, 1984).

See: 16 N.J.R. 2837(a).

Section substantially amended.

Readopted, R.1984 d.568, effective November 28, 1984.

See: 16 N.J.R. 2837(a), 16 N.J.R. 3442(a).

Was previously filed as emergency rule.

Amended by R.1991 d.7, effective January 7, 1991.

See: 22 N.J.R. 2445(a), 23 N.J.R. 93(a).

In (c): added "not" to describe that earned income shall not include the amount of Earned Income Credit payment.

Deleted (c)1-3 which outlined process for including amount of payment.

Case Notes

Income must be readily available to meet needs of eligible unit. *Boyle v. Riti*, 175 N.J.Super. 158, 165, 417 A.2d 1091 (App.Div.1980).

Error in income calculation concerning earned income advance payments corrected by credit reduction due to weekly pay basis (citing former regulation); benefits restored. *Bergen Cty. Bd. of Social Services v. P.D.*, 4 N.J.A.R. 23 (1983).

Initial eligibility for AFDC grant must be determined on all income available at any time during the month the application was received (Director's Final Decision) (cited as N.J.A.C. 10:82-2.11). In the *Matter of P.B.*, 8 N.J.A.R. 329 (1980).

10:82-4.2 Definition of earned income

(a) Earned income refers to gross income earned by an individual through the receipt of wages, tips, salaries or commissions from activities in which he/she is engaged as an

employee or from his/her self-employment. It includes earnings over a period of time for which settlement is made in one payment, as in the sale of farm crops.

(b) When an individual receives shelter in return for performing work duties, the monetary value shall be determined from Schedule VI and included in the total amount of gross earned income. The amount of mandatory payroll deductions to be recognized shall be determined in relation to such total amount.

(c) When an individual is employed in a position where tipping is customary, a daily log or other acceptable documentation of tips received shall be used for income calculation. Tips income calculation shall not be based on estimated information as reported on W-2 forms.

Amended by R.1986 d.318, effective August 4, 1986.
See: 18 N.J.R. 1056(a), 18 N.J.R. 15956(a).

(c) added.

10:82-4.3 Earned income from self-employment

(a) With respect to self-employment, the term "earned income" means the total profit from a business enterprise (such as farming) resulting from a comparison of the gross receipts with the business expenses. Business expenses are those costs directly related to producing the goods or services and without which, the goods or services could not be produced. However, items such as depreciation, personal business and entertainment expenses, personal transportation, purchase of capital equipment, and payments on the principal of loans for capital assets or durable goods are not business expenses.

1. Persons who are self-employed shall be required to submit evidence of business receipts and expenditures as the basis for a sound estimate of earned income. A reliable, accurate accounting system or the method utilized in reporting to the Internal Revenue Service shall be acceptable for determining net income.

(b) In the case of an individual who is self-employed, it may be clearly evident that the expense of producing the income exceeds the income produced. Assistance shall not be granted or continued if such person persists in operating the business, since this in effect would be using public assistance to subsidize a failing business.

1. New business: A period of up to 24 months from the start of a new business will be considered adequate to demonstrate its potential for self-support. In situations where, in the judgment of the county welfare agency, additional time would enable the business to show a profit, the period may be extended up to 12 months.

2. Business already established: A business which is already established (that is, in operation for at least 36 months) and which shows only marginal profit, either constant or intermittent, will be considered for purposes of this manual to be failing if the profit, averaged over the preceding 12 months, is less than \$375.00 per month.

(c) An individual who is providing extensive personal services along with room and board accommodation to a noneligible individual shall be considered self-employed. An amount of \$125.00 shall be recognized as the business expense and cost of providing room, board and extensive personal services. Any income from this arrangement in excess of \$125.00 shall be recognized as earned income.

Amended by R.1982 d.443, effective December 20, 1982.

See: 14 N.J.R. 952(a), 14 N.J.R. 1459(b).

Clarified term "earned income" and specified what are business expenses.

Amended by R.1986 d.470, effective December 1, 1986.

See: 18 N.J.R. 928(a), 18 N.J.R. 2388(a).

Deleted text in (c) "adult other than a relative" and substituted "a noneligible individual"; also added "An amount of ... extensive personal services."

Case Notes

Existence of failing business; finding that benefits recipient not persisting in operating business but in process of terminating it; benefits continued. *J.D. v. Monmouth Cty. Bd. of Social Services*, 5 N.J.A.R. 199 (1979).

Support payment received for foster child under Youth Advocate Program is exempt from consideration as income in calculation of AFDC grant. *Burlington Cty. Welfare Agency v. L.N.*, 4 N.J.A.R. 159 (1982).

10:82-4.4 Disregard of earned income in AFDC-C and -F segments

(a) The CWA shall disregard from the earned income of each employed individual, the first \$90.00 of such earnings.

(b) The CWA shall disregard from the total earned income not already disregarded, the first \$30.00 and one-third of the remainder for each employed individual.

1. This disregard shall apply to the earned income of a person for a period of four consecutive months. Once this disregard has applied for a four consecutive month period, it shall not again be applied on behalf of that individual as long as he or she continues to receive AFDC-C, -F or -N. If after receiving this disregard for a four consecutive month period, the individual becomes ineligible for AFDC-C, -F or -N, this disregard shall not be applied to his or her income unless the individual has remained ineligible for AFDC for a period of 12 consecutive months.

2. The \$30.00 and one-third disregard is to be applied only when an amount of earned income remains, after application of the disregard in (a) above, to permit application of this disregard.

i. For any month in which any part of the \$30.00 and one-third disregard is applied, that month shall be counted as one of the four consecutive months of disregard.

3. Any month for which the individual loses the \$30.00 and one-third disregard because of the provision in (f) below shall be considered as one of the four consecutive months.

(c) For a period not exceeding eight months from the end of the four consecutive months of the \$30.00 plus one-third of the remainder disregard, a deduction of the first \$30.00 of the remaining income shall be applied.

1. Upon expiration of the eight-month period this deduction shall not be applied again so long as the wage earner is a recipient of AFDC-C, -F or -N benefits. This deduction will again be applied after the eight-month period only after the wage earner has not been a recipient of AFDC-C, -F or -N benefits for a period of 12 consecutive months.

(d) The CWA shall disregard from the remaining earned income, the actual costs paid for child care or for care of an incapacitated individual in the same home as the AFDC-C, -F or -N eligible family when the circumstances described at N.J.A.C. 10:82-2.8(b) exist. The amount of the disregard shall not exceed the limits as follows:

1. \$175.00 per month, per child age two or older, or incapacitated adult, for full-time employment;
2. \$200.00 per month, per child under age two, for full-time employment;
3. \$135.00 per month, per child age two or older, or incapacitated adult, for part-time employment;
4. \$150.00 per month, per child under age two, for part-time employment.

(e) If applicable, deduct from the monthly earned income of each employed person in the family the State earned income disregard, which shall be determined in accordance with N.J.A.C. 10:82-2.8(c).

(f) None of the disregards above shall apply to the earned income of the individual for any month in which one of the following conditions apply to him or her:

1. Terminated his or her employment or reduced his or her earned income without good cause within 30 days prior to that month.
 - i. Good cause includes the following circumstances:
 - (1) The termination or reduction is not voluntary;
 - (2) The wages of employment are below the applicable minimum wage;
 - (3) The individual is not physically able to engage in the employment; and
 - (4) The employment constitutes a risk to health or safety.

2. Refused without good cause, within 30 days prior to that month, to accept employment in which he or she is able to engage which is offered through the State Division of Employment Security or any other bona fide offer of employment. The good cause provision of (f)1i above apply.

3. Voluntarily requested assistance to be terminated for the primary purpose of avoiding the receipt of the \$30.00 and one-third disregard for four consecutive months.

Amended by R.1981 d.396, effective September 30, 1981 (to become operative October 1, 1981).

See: 13 N.J.R. 763(a), 14 N.J.R. 102(d).

Existing text deleted and new text (a)-(d) added.

Amended by R.1982 d.443, effective December 20, 1982.

See: 14 N.J.R. 952(a), 14 N.J.R. 1459(b).

Defined "good cause" for terminating or reducing employment and refusal to accept employment for purposes of application of earned income disregards.

Amended as emergency rule, R.1984 d.463, effective September 28, 1984 (operative October 1, 1984).

See: 16 N.J.R. 2837(a).

Added new (d); old (d) recodified to (e).

Readopted, R.1984 d.568, effective November 28, 1984.

See: 16 N.J.R. 2837(a), 16 N.J.R. 3442(a).

Previously filed as emergency rule R.1984 d.463.

Amended by R.1986 d.471, effective December 1, 1986.

See: 18 N.J.R. 260(a), 18 N.J.R. 2388(b).

(c)2 added; all (c)2 renumbered (c)3.

Amended by R.1991 d.7, effective January 7, 1991.

See: 22 N.J.R. 2445(a), 23 N.J.R. 93(a).

In (a): raised amount of disregard to "\$90.00" from "\$75.00". Deleted subsection (b), recodifying (c)-(d) as (b)-(c), adding new subsection (d) to text.

Amended by R.1991 d.556, effective November 4, 1991.

See: 23 N.J.R. 2217(a), 23 N.J.R. 3366(a).

In (d): added N.J.A.C. reference.

Amended by R.1992 d.261, effective June 15, 1992 (operative July 1, 1992).

See: 24 N.J.R. 1194(a), 24 N.J.R. 2258(a).

Added references to N-segment throughout.

Deleted text at (e)3 which no longer applies as it was based on monthly reporting system provisions. Recodified existing (e)4 as new (e)3, with no changes in text.

Amended by R.1992 d.367, effective September 21, 1992 (operative October 1, 1992).

See: 24 N.J.R. 2155(a), 24 N.J.R. 3352(a).

Text on earned income disregard added at (e).

Case Notes

"Family cap" requirement included in state Aid to Families with Dependent Children (AFDC) plan under which AFDC grant increase for child born to AFDC recipient was valid. C.K. v. Shalala, D.N.J. 1995, 883 F.Supp. 991.

10:82-4.5 (Reserved)

Amended by R.1981 d.282, effective August 6, 1981.

See: 13 N.J.R. 224(b), 13 N.J.R. 499(a).

(b)lii: "21" was "18".

Amended on an emergency basis, R.1981 d.396, effective September 30,

1981 (operative October 1, 1981), exp. November 30, 1981. See: 13

N.J.R. 763(a). Readopted, R.1981 d.519, effective December 31,

1981. See: 13 N.J.R. 763(a), 14 N.J.R. 102(d).

Catchline: "in AFDC-N" added.

(a)-(a)1i deleted; (b) renumbered as (a); (c) renumbered as (b) with

"for AFDC-N" added and "and (b)" deleted after "authorized in (a)".

Amended by R.1984 d.258, effective November 19, 1984.

See: 16 N.J.R. 2336(a), 16 N.J.R. 3206(b).

Earned income of children age changed from 21 to 19 years.

10:82-4.6 Disregard of certain allowances and payments in AFDC (all segments)

(a) Unearned income (including monies to offset training expenses) received by an AFDC dependent child through

the Job Training Partnership Act (JTPA) is exempt in the determination of initial eligibility, maximum income eligibility, prospective needs test, and grant entitlement.

(b) Earned income received through the JTPA by an AFDC dependent child is exempt in the determination of initial eligibility, maximum income eligibility, prospective needs test and grant entitlement. However, the disregard of such income shall not exceed six months in any calendar year.

1. This disregard of income is independent of the earned income disregard found at N.J.A.C. 10:82-4.7(g). If a full-time student secures employment unrelated to JTPA participation, a second six-calendar-month period shall be established in accordance with the provisions of that subsection.

(c) Income received by an AFDC parent or parent-person through the JTPA is treated as any other income received by such an individual with the exception of those payments classified as "needs based payments". Needs based payments (that is, monies to offset expenses related to training) are to be disregarded in the determination of initial eligibility, maximum income determination, prospective needs test, and grant computations.

Amended by R.1977 d.190, effective May 25, 1977.

See: 9 N.J.R. 175(b), 9 N.J.R. 278(d).

Amended by R.1979 d.424, effective November 1, 1979.

See: 11 N.J.R. 447(b), 11 N.J.R. 560(a).

Amended by R.1980 d.384, effective September 8, 1980.

See: 12 N.J.R. 414(b), 12 N.J.R. 599(c).

(a) substantially amended.

Amended by R.1984 d.258, effective November 19, 1984.

See: 16 N.J.R. 2336(b), 16 N.J.R. 3206(b).

Old text deleted, new text inserted.

Amended by R.1986 d.471, effective December 1, 1986.

See: 18 N.J.R. 260(a), 18 N.J.R. 2388(b).

Added text in (b).

Case Notes

Lack of initiative to resolve need for permanent housing justified denial. *L.K. v. Middlesex County Board of Social Services*, 92 N.J.A.R.2d (DEA) 46.

10:82-4.7 Earned income of a child who is a full or part-time student

(a) The earned income of any child in the eligible unit who is a full-time student, or is a part-time student who is not a full-time employee, shall be exempt in determining need of the eligible unit and in evaluating his/her capacity as a legally responsible relative. (See N.J.A.C. 10:82-1.9(b) for definitions of full and part-time students).

(b) For the purposes of this regulation a full-time employee shall be any student whose average employment on a monthly basis equals 35 hours a week or more.

(c) A student who is a full or part-time student during the regular school term shall be considered to be a full or part-time student during all vacation periods.

(d) When a child claiming the exemption of earned income described in this section is over 16 years of age, this student shall be informed in writing that he/she has a responsibility for participating in determining his/her eligibility for such exemptions. The student and the county welfare agency have joint responsibility for securing the factual data from the school necessary to make the determination as to whether he/she is a full or part-time student, and for securing from his/her employer the factual data of monthly hours employed.

(e) Part-time students who are fully employed and are thus not eligible for the exemption of earned income as described in this section are eligible for the appropriate disregards depending on program segment.

(f) The exemption of earned income of part-time students under this section does not apply in determining maximum income eligibility in N.J.A.C. 10:82-1.2.

(g) The earned income of a full-time student shall be disregarded in the determination of maximum income eligibility (N.J.A.C. 10:82-1.2) for a total of six months in any one calendar year.

Amended by R.1977 d.190, effective May 25, 1977.

See: 9 N.J.R. 175(b), 9 N.J.R. 278(d).

Amended on an emergency basis, R.1981 d.396, effective September 30, 1981 (operative October 1, 1981), expired November 30, 1981.

See: 13 N.J.R. 763(a).

Readopted, R.1981 d.519, effective December 31, 1981.

See: 13 N.J.R. 763(a), 14 N.J.R. 102(d).

(f) added.

Amended as emergency rule, R.1984 d.463, effective September 28, 1984 (operative October 1, 1984).

See: 16 N.J.R. 2837(a).

(g) added.

Readopted, R.1984 d.568, effective November 28, 1984.

See: 16 N.J.R. 2837(a), 16 N.J.R. 3442(a).

Previously filed as emergency rule R.1984 d.463.

Case Notes

Full-time student's income was exempt. *G.F. v. Camden County Welfare Agency*, 92 N.J.A.R.2d (DEA) 59.

10:82-4.8 Income from family day care

(a) Payments by individuals or agencies for children placed in an eligible family's home for Family Day Care shall be considered as gross earned income from self-employment. Earned income procedures for self-employment are discussed at N.J.A.C. 10:82-4.3.

1. The net income (adjusted gross earnings) to the eligible family is the difference between the cost of providing family day care and the total monthly amount paid for such care. Appropriate disregards apply in determining the calculated earned income (see N.J.A.C. 10:82-4.4).

2. The exception to this procedure concerns the State registered family day care providers participating in the special Family Development Program (FDP) or REACH initiative which has designated 600 child care provider slots Statewide as a FDP or REACH activity for participants of those programs. The self-employment income earned by those clients participating in that initiative is budgeted according to procedures set forth at N.J.A.C. 10:86-5.8(a) and 10:81-14.21(b) in most instances. Those special budgeting procedures at N.J.A.C. 10:86-5.8(a) and 10:81-14.21(b) are limited to the 600 cases allocated among the counties and the allocation is based on the county's proportionate share of the AFDC population. However, if a child(ren) is born to the participant and the provisions of N.J.A.C. 10:82-1.11 are applicable, then the participant shall have the option of having income budgeted in accordance with N.J.A.C. 10:86-5.8(a) and 10:81-14.21(b) or may have the earned income disregards applied as set forth at N.J.A.C. 10:82-2.8 and 4.4 to include applications of the State earned income disregard.

Amended by R.1989 d.497, effective September 18, 1989.
 See: 21 N.J.R. 1811(a), 21 N.J.R. 3014(a).
 Family day care income references updated.
 Amended by R.1991 d.7, effective January 7, 1991.
 See: 22 N.J.R. 2445(a), 23 N.J.R. 93(a).
 Added new (a)2.
 Amended by R.1992 d.367, effective September 21, 1992 (operative October 1, 1992).
 See: 24 N.J.R. 2155(a), 24 N.J.R. 3352(a).
 Text added to include Family Development Program; reference to 1.11 added.

10:82-4.9 Division of Youth and Family Services

(a) Division of Youth and Family Services' monthly payments for the placement of children in foster care and the clothing allowance shall be considered as equal to the cost of providing such care and maintenance. However, when extra payment is received for special services, such additional amount shall be considered as earned income from self-employment (see N.J.A.C. 10:82-4.3).

(b) For purposes of determining the public assistance allowance, such foster care children are not considered members of the eligible unit.

(c) The basic monthly rates for foster care as established by the Division of Youth and Family Services are as follows:

Age	New Base Rate/Child
0-5	\$256.00 per month
6-9	\$272.00 per month
10-12	\$301.00 per month
13 and over	\$320.00 per month

Amended by R.1980 d.83, effective May 1, 1980.
 See: 12 N.J.R. 29(b), 12 N.J.R. 127(c).
 (c)1-4 was \$110, \$116, \$125 and \$135 respectively.
 Amended by R.1980 d.332, effective August 1, 1980.
 See: 12 N.J.R. 320(c), 12 N.J.R. 484(b).
 (c)2 was six through 10 years.
 (c)3 was 11 through 14 years.
 Amended by R.1982 d.208, effective July 6, 1982.

See: 14 N.J.R. 374(b), 14 N.J.R. 709(c).
 (c)1. changed monthly foster care rate from \$116.00 to \$160.00 for six years and under.
 2. \$122.00 to \$171.00 for six through nine years.
 3. \$132.00 to \$189.00 for 10 through 14 years.
 4. \$144.00 to \$200.00 for 15 years and over.
 Amended by R.1984 d.528, effective November 19, 1984.
 See: 16 N.J.R. 2336(b), 16 N.J.R. 3206(b).
 (c)1. changed monthly foster care rate from \$160.00 to \$176.00.
 2. \$171.00 to \$188.00.
 3. \$189.00 to \$208.00.
 4. \$200.00 to \$220.00.
 Amended by R.1992 d.106, effective March 2, 1992.
 See: 23 N.J.R. 3420(a), 24 N.J.R. 852(a).
 Revised table in subsection (c).
 Amended by R.1992 d.340, effective September 8, 1992.
 See: 24 N.J.R. 2160(a), 24 N.J.R. 3092(a).
 In (c): increased base rate amounts.

Case Notes

Determination of foster child status required recalculation of AFDC grant. Burlington Cty. Welfare Agency v. L.N., 4 N.J.A.R. 159 (1982).

10:82-4.10 Income which is not earned

Net income from noneligible household members (except as stated in N.J.A.C. 10:82-4.3(c)), returns from capital investment such as dividends and interest, benefits and pensions, annuities, contributions from relatives, compensation payments, and so forth, shall be considered as unearned income. All such income shall be recognized in establishing eligibility and in computing the assistance grant.

Amended by R.1984 d.191, effective May 21, 1984.
 See: 15 N.J.R. 2019(a), 16 N.J.R. 1272(a).
 Reference to rental of apartments or housekeeping units deleted.

Case Notes

AFDC applicant entitled to recalculation of eligibility utilizing federal regulations where state regulations under which eligibility was first calculated were held invalid in an unpublished Appellate Division decision. Eherenstorfer v. Div. of Public Welfare, 196 N.J.Super. 405, 483 A.2d 212 (App.Div.1984).

10:82-4.11 Income from roomer-boarders and table boarders

Roomer-boarders or table boarders are non-eligible household members. See N.J.A.C. 10:82-2.3 regarding payment received from such persons.

Amended by R.1985 d.385, effective August 5, 1985.
 See: 17 N.J.R. 1045(a), 17 N.J.R. 1895(b).
 Deleted "Roomers" from text.

Case Notes

Roomer-boarders are non-eligible household members; determination of foster child status versus roomer-boarder status for AFDC grant calculation. Burlington Cty. Welfare Agency v. L.N., 4 N.J.A.R. 159 (1982).

10:82-4.12 Income from apartments, rooms or housekeeping units

(a) When the eligible unit is receiving payment from rental of apartments, rooms or housekeeping units, the net

income shall be determined by deducting the costs of operation and maintenance from the gross rental income received.

1. The costs of operation and maintenance are the greater of:

i. The actual costs of operation and maintenance, if known or subject to determination, or such reasonable allocation of actual or determined costs as may be indicated according to the space being rented out; or

ii. The number of rooms, excluding bathrooms, being rented out multiplied by the applicable monthly cost figure as follows:

- (1) With no utilities: \$23.00;
- (2) Including heat only: \$29.00;
- (3) Including all utilities: \$34.00.

2. To determine the total costs, multiply the monthly cost figure by the number of rooms in each apartment or housekeeping unit, excluding any room used solely as a bathroom.

3. Deduct the total cost from the amount of rental income received by the eligible unit. The difference is the net income, to be entered on Form PA-3A or 105.

i. Rental income shall be treated as earned income except in those situations where rental properties are in the hands of rental agencies; in such cases the income shall be considered as unearned.

(b) When the functions of property management including the collection of rents are performed by a member(s) of the eligible unit, the net is earned income, otherwise it is unearned income.

Amended by R.1984 d.191, effective May 21, 1984.

See: 15 N.J.R. 2019(a), 16 N.J.R. 1272(a).

Reference to income from rooms added; (a)3i added.

Amended by R.1985 d.385, effective August 5, 1985.

See: 17 N.J.R. 1045(a), 17 N.J.R. 1895(b).

(a)1 deleted; new (a)1 inserted.

Case Notes

AFDC applicant entitled to recalculation of eligibility utilizing federal regulations where state regulations under which eligibility was first calculated were held invalid in an unpublished Appellate Division decision. *Eherenstorfer v. Div. of Public Welfare*, 196 N.J.Super. 405, 483 A.2d 212 (App.Div.1984).

10:82-4.13 Contributions of support

(a) Obligatory contributions to the support of one or more members of the eligible unit shall be recognized as unearned income, regardless of whether such contributions are in cash or in kind. (See N.J.A.C. 10:82-3.12, Acceptable forms of support.)

(b) When shelter is being provided by a legally responsible relative (LRR) who has been determined by the CWA IV-A unit to have a capacity to provide support, the actual cash value shall, whenever possible, be determined and recognized as unearned income to the eligible unit. Where the actual value cannot be established, and is not stipulated by a court order to be made in an identifiable cash amount to a third party, the monthly monetary values shall be recognized according to Schedule VI and shall not exceed the LRR's evaluated capacity.

(c) Nonobligatory contributions, other than occasional gifts identified in N.J.A.C. 10:82-3.2(b)8, shall be recognized as unearned income only when made in cash to one or more members of the eligible unit (see also N.J.A.C. 10:82-2.3). This does not apply to LRRs who have an evaluated capacity to support.

Amended by R.1980 d.389, effective November 1, 1980.

See: 12 N.J.R. 414(c), 12 N.J.R. 600(a).

(b) substantially amended.

Amended by R.1986 d.115, effective April 7, 1986 (operative May 1, 1986).

See: 18 N.J.R. 20(b), 18 N.J.R. 689(b).

Added text in (b) "been determined by the CWA IV-A unit to have".

Amended by R.1987 d.285, effective July 20, 1987.

See: 19 N.J.R. 344(a), 19 N.J.R. 1317(a).

Substituted "to" for "of", deleted text "are an available resource".

Case Notes

Monthly mortgage payments made by legally responsible relative. *Schmidt v. N.J. Dept. of Institutions and Agencies*, 147 N.J.Super. 150, 153, 370 A.2d 892 (App.Div.1977) (regulation cited as ASH § 431.1).

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.

Regulations in N.J.A.C. 10:82 regarding loans inapplicable to Food Stamp dispute by provision of N.J.A.C. 10:87-1.5. In re: S.C., 6 N.J.A.R. 333 (1981).

10:82-4.14 Exempt income

(a) Exempt income is not considered in determining eligibility for assistance or in computing the amount of the assistance payments.

(b) Exempt income is as follows:

1. Items set forth in N.J.A.C. 10:82-3.2(b); and

2. Income tax refunds, including Homestead Property Tax Rebates; however, any portion of the actual refund remaining in the month following the month of receipt shall be considered as a resource in that following month.

3. EIC payments are to be considered excluded resources in the month of receipt and the month following the month of receipt.

i. The EIC is not considered a countable income source in the calculation of AFDC benefits (for all segments -C, -F, and -N).

New Rule, R.1987 d.285, effective July 20, 1987.

See: 19 N.J.R. 344(a), 19 N.J.R. 1317(a).

Old rule "Income received at regular intervals" was repealed.
Amended by R.1991 d.7, effective January 7, 1991.

See: 22 N.J.R. 2445(a), 23 N.J.R. 93(a).

In (b)2: added new text changing "except the" to "including" in discussing earned income credit refunds.

Added new (b)2i.-ii.

Amended by R.1994 d.430, effective August 15, 1994.

See: 26 N.J.R. 1584(a), 26 N.J.R. 3483(a).

Case Notes

Regulations in N.J.A.C. 10:82 regarding loans inapplicable to Food Stamp dispute by provision of N.J.A.C. 10:87-1.5. In re: S.C., 6 N.J.A.R. 333 (1981).

10:82-4.15 Nonrecurring earned or unearned lump sum income

(a) When a recipient receives nonrecurring earned or unearned lump sum income, including retroactive R.S.D.I. payments and other monthly benefits, and payments in the nature of a windfall, such as inheritances and lottery winnings, personal injury and worker compensation awards, to the extent it is not earmarked and used for the purpose for which it was paid (for example, monies for back medical bills resulting from accidents or injury, funeral and burial costs, replacement or repair of resources, and so forth), that income will be added together with all other income received that month by the eligible family after application of the disregards in N.J.A.C. 10:82-2.8 and the exemption of income in N.J.A.C. 10:82-2.7. The AFDC assistance payment shall not be considered income. No portion of lump sum or other income may be applied toward the resource limit in the month of its receipt. When this total exceeds the Standard of Need for the eligible family size as set forth at N.J.A.C. 10:82-1.1A, the family will be ineligible for AFDC for the number of full months derived by dividing this total income by the Standard of Need applicable to the eligible family. Any remaining income from this calculation is treated as if it is unearned income received in the first month following the period of ineligibility and is considered available for use at that time. SSI payments shall not be subject to lump sum treatment.

1. For purposes of determining the period of ineligibility, the family includes the AFDC assistance unit and any other individual (such as a stepparent) whose lump sum income caused the unit's income to exceed the allowance standard.

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

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

4. The period of ineligibility applies to each individual in the eligible family at the time of receipt of the lump sum nonrecurring income. Other family members to whom the penalty does not apply, may be eligible as a separate assistance unit.

5. Once established, the period of ineligibility may be reduced only in the circumstances below. It is the responsibility of the former eligible family to provide all necessary information and documentation required to make a determination to shorten the period of ineligibility. The basis for a determination to shorten the period of ineligibility shall be thoroughly documented in the case record.

i. The period of ineligibility may be recalculated when the AFDC Standard of Need is increased. Upon request of a former AFDC eligible family, the period of ineligibility will be reduced as follows:

(1) The number of months of ineligibility already elapsed shall be multiplied by the Standard of Need used to compute the original period of ineligibility;

(2) The result shall be subtracted from the original lump sum amount; and

(3) The remaining amount shall be divided by the new AFDC Standard of Need for the eligible family size and the result will be the number of months of ineligibility remaining.

ii. The period of ineligibility may be recalculated if the income used to determine such period becomes unavailable to the eligible family for reasons beyond the control of the family members. Acceptable reasons are limited to those below:

(1) Loss or theft of the income: The former eligible family shall thoroughly substantiate an allegation of loss or theft of part or all of the lump sum income and must provide the CWA with evidence that a police report of an incident of theft has been filed. Upon receipt of credible evidence of loss or theft of the income the CWA shall reduce the amount of the original lump sum by the amount of the loss or theft. Loss of the income, for the purposes of this section, shall include circumstances where a member of the former eligible family has absconded with the funds.

(2) Fire, flood, natural disaster, or other emergent situation: When the former eligible family incurs and pays verifiable expenses due to an emergent situation, for which, had the family been eligible, emergency assistance would have been authorized under N.J.A.C. 10:82-5.10, those expenses shall reduce the amount of the original lump sum.

iii. The period of ineligibility may be reduced if the family incurs, becomes responsible for, and pays medical expenses during the period of ineligibility. In such cases the original income used to compute the period of ineligibility shall be offset by verified medical expenses.

ditures. For this purpose, allowable medical expenses are as follows:

(1) Medical and dental care: Medical and dental care including psychotherapy and rehabilitation services provided by a licensed practitioner authorized by State law or other qualified health professional;

(2) Hospitalization: Hospitalization or outpatient treatment, nursing care, and nursing home care, including payments by the household for an individual who was an eligible family member immediately prior to entering a hospital or nursing home, provided by a facility recognized by the State;

(3) Prescription drugs: Prescription drugs when prescribed by a licensed practitioner authorized under State law and other over-the-counter medication (including insulin) when approved by a licensed practitioner or other qualified health professional; in addition, costs of medical supplies, sick-room equipment (including rental) or other prescribed equipment;

(4) Health and hospital insurance: Health and hospitalization insurance policy premiums;

(5) Medicare premiums: Medicare premiums related to coverage under Title XVIII of the Social Security Act;

(6) Dentures, hearing aids, and prosthetics: Dentures, hearing aids, and prosthetics;

(7) Seeing eye or hearing dog: Securing and maintaining a seeing eye or hearing dog including the cost of dog food and veterinarian bills;

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

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

(10) Attendant care: Maintaining an attendant, homemaker, home health aide, housekeeper, or child care services, necessary because of age, infirmity, or illness.

6. In all instances, where the previously eligible family has been terminated due to receipt of lump sum income, the notice of adverse action shall include:

i. The reason for the family's termination from AFDC;

ii. The duration of the period of ineligibility;

iii. The earliest date the ineligible family may apply to reopen their AFDC case; and

iv. A statement concerning possible reduction of the ineligibility period (see (a)5ii or 5iii above).

(b) For the AFDC and Medicaid programs, lump sum income and the resulting period of ineligibility shall be treated in accordance with the following provisions:

1. AFDC program: Only those individuals actually receiving AFDC cash assistance or deemed to be receiving AFDC are considered to be AFDC recipients. An individual receiving Medicaid Only or Medicaid Special is not considered an AFDC recipient. Therefore, a period of ineligibility imposed on a recipient of Medicaid Only or Medicaid Special benefits due to the receipt of lump sum income cannot be carried over into the AFDC program, and cannot cause ineligibility for either AFDC or associated Medicaid benefits, if such individual applies and is determined eligible for AFDC cash assistance.

2. Medicaid program: Eligibility for Medicaid Only and Medicaid Special benefits, with respect to the receipt of lump sum income and application of a period of ineligibility, is determined in accordance with AFDC regulations. Thus, an AFDC recipient determined ineligible for AFDC and Medicaid for a certain number of months due to the receipt of lump sum income shall continue to be ineligible if he or she applies for Medicaid Only or Medicaid Special benefits during the period of ineligibility. However, an individual receiving Medicaid Only or Medicaid Special benefits, who is ineligible for such benefits due to the receipt of lump sum income, shall not be required to complete the period of ineligibility if subsequently determined eligible for AFDC.

i. Example: An employed woman applies for AFDC for herself and her two children. Upon learning that the family is eligible for only a \$12.00 AFDC grant, she elects to forego the AFDC grant and to receive Medicaid Only. The next month, a family member receives a \$2,500 lump sum payment, causing ineligibility for Medicaid benefits for a period of eight months. Five months later the woman loses her job; the family applies for AFDC and is determined eligible. The family will not be required to complete the remaining three months of ineligibility for Medicaid caused by the receipt of lump sum income, because a period of ineligibility imposed on a recipient of Medicaid Only cannot be carried over into the AFDC program.

ii. Example: A pregnant woman applies for Medicaid Special benefits on behalf of her unborn child. Three months before the child is born, she receives a \$1,900 lump sum payment, causing ineligibility for Medicaid benefits for a period of six months. Within four months, she has given birth to her child. She applies for AFDC for herself and her child and is determined eligible. The mother and child will be eligible for Medicaid effective with the date of eligibility for AFDC. The mother will not be required to complete the remaining two months of ineligibility for Medicaid caused by the receipt of lump sum income, because a period of ineligibility imposed on a recipient of Medicaid Special cannot be carried over into the AFDC program.

(c) These regulations are not to be construed to limit any policy pertaining to reimbursement in any program, but must be applied in conjunction with any repayment agreement.

Amended by R.1979 d.424, effective November 1, 1979.

See: 11 N.J.R. 447(b), 11 N.J.R. 560(a).

Amended by R.1980 d.442, effective November 1, 1980.

See: 12 N.J.R. 534(a), 12 N.J.R. 663(d).

(a): "specific purpose" language removed.

See: N.J.A.C. 10:82-3.2(b)7vi and (b)8.

Amended by R.1981 d.287, effective August 6, 1981.

See: 13 N.J.R. 224(c), 13 N.J.R. 499(b).

Substantially amended.

Amended on an emergency basis, R.1981 d.396, effective September 30, 1981 (operative October 1, 1981), exp. November 30, 1981. See: 13 N.J.R. 763(a). Readopted, R.1981 d.519, effective December 31, 1981. See: 13 N.J.R. 763(a), 14 N.J.R. 102(d).

(a)-(a)3 deleted, and a new text for (a) added.

Amended by R.1982 d.443, effective December 20, 1982.

See: 14 N.J.R. 952(a), 14 N.J.R. 1459(b).

Determination of period of ineligibility clarified.

Amended as emergency rule, R.1984 d.463, effective September 28, 1984 (operative October 1, 1984).

See: 16 N.J.R. 2837(a).

Section substantially amended.

Readopted, R.1984 d.568, effective November 28, 1984 (amendment effective December 16, 1984).

See: 16 N.J.R. 2837(a), 16 N.J.R. 3442(a).

Previously filed as emergency rule R.1984 d.463.

Amended by R.1986 d.471, effective December 1, 1986.

See: 18 N.J.R. 260(a), 18 N.J.R. 2388(b).

Added text "No portion of . . . of its receipt."

Amended by R.1987 d.178, effective April 20, 1987.

See: 19 N.J.R. 32(a), 19 N.J.R. 645(a).

New (b) added; old (b) renumbered (c).

Amended by R.1987 d.285, effective July 20, 1987.

See: 19 N.J.R. 344(a), 19 N.J.R. 1317(a).

Text added to (a) "including for AFDC . . . and so forth);".

Amended by R.1988 d.40, effective January 19, 1988.

See: 19 N.J.R. 1782(a), 20 N.J.R. 193(b).

Substituted the word "family" for "unit".

Amended by R.1989 d.497, effective September 18, 1989.

See: 21 N.J.R. 1811(a), 21 N.J.R. 3014(a).

Adverse action notice requirements added at (a)6.

Amended by R.1992 d.261, effective June 15, 1992 (operative July 1, 1992).

See: 24 N.J.R. 1194(a), 24 N.J.R. 2258(a).

Corrected text throughout to add references to Standard of Need and deleted outdated N.J.A.C. cross-references.

Law Review and Journal Commentaries

Welfare. Judith Nallin, 133 N.J.L.J. 48 (1993).

Case Notes

Statutory amendment excluding child's claim for personal injuries as a source of repayment to welfare agency given retroactive effect to infants injured prior to amendment. *Hart v. Fox*, 204 N.J.Super. 564, 499 A.2d 553 (Law Div.1985).

AFDC lump sum ineligibility standard. *B.C. v. New Jersey Dept. of Human Services*, 263 N.J.Super. 225, 622 A.2d 903 (A.D.1993).

Period of ineligibility for AFDC could not be based on proposed regulations. *S.V. v. Burlington County Welfare Agency*, 93 N.J.A.R.2d (DEA) 33.

General instruction not notice of lump-sum rule. *Union County Board of Social Services v. D.J.*, 92 N.J.A.R.2d (DEA) 17.

Applicant temporarily housed in motel for 18 months had to contribute towards cost of housing. *P.F. v. Essex County Welfare Agency*, 93 N.J.A.R.2d (DEA) 36.

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.

No temporary rental assistance; household had sufficient money to cover expenses. *K.S. v. Hunterdon County Board of Social Services*, 93 N.J.A.R.2d (DEA) 17.

Issue mooted by voluntary move. *P.B. v. Hudson County Board of Social Services*, 92 N.J.A.R.2d (DEA) 23.

Ineligibility for AFDC required termination of emergency shelter assistance. *M.M. v. Middlesex County Board of Social Services*, 92 N.J.A.R.2d (DEA) 15.

10:82-4.16 Support and alimony paid by a member of the eligible unit

Child support and alimony payments paid by any member of the AFDC household shall be disregarded in the determination of the assistance payment.

Emergency new rule, R.1981 d.396, effective September 30, 1981 (operative October 1, 1981), exp. November 30, 1981. See: 13 N.J.R. 763(a). Readopted, R.1981 d.519, effective December 31, 1981. See: 13 N.J.R. 763(a), 14 N.J.R. 102(d).

10:82-4.17 Child support received by the eligible unit

The first \$50.00 of any child support payments received on behalf of a dependent child or children by any family applying for or receiving AFDC shall be disregarded. Such child support payments shall include disregarded child support (DCS) payments paid the family through the child support and paternity process and direct support payments received by the eligible unit which represent a current monthly support obligation. These monies are disregarded in determination of initial eligibility, maximum income eligibility, prospective needs test, and the grant computation. The total amount of child support disregarded shall not exceed \$50.00 per month per eligible unit.

R.1984 d.463, effective September 28, 1984 (operative October 1, 1984). See: 16 N.J.R. 2837(a).

New Rule on emergency basis.

Readopted R.1984 d.568, effective November 28, 1984.

See: 16 N.J.R. 2837(a), 16 N.J.R. 3442(a).

Previously filed as a new rule on emergency basis, R.1984 d.463.

Amended by R.1986 d.471, effective December 1, 1986.

See: 18 N.J.R. 260(a), 18 N.J.R. 2388(b).

Substantially amended.

Case Notes

Distinction between social security dependents' benefits and child support payments has a rational basis for equal protection purposes. *Baylor v. New Jersey Dept. of Human Services, Div. of Public Welfare*, 235 N.J.Super. 22, 561 A.2d 618 (A.D.1989), affirmed 127 N.J. 286, 604 A.2d 110.

"Child support" is not restricted to payments assigned to the state and passed through the agency responsible for collection. *Baylor v. New Jersey Dept. of Human Services, Div. of Public Welfare*, 235 N.J.Super. 22, 561 A.2d 618 (A.D.1989), affirmed 127 N.J. 286, 604 A.2d 110.

Social security dependents' benefits are not subject to the \$50 disregard provision for child support. *Baylor v. New Jersey Dept. of Human Services, Div. of Public Welfare*, 235 N.J.Super. 22, 561 A.2d 618 (A.D.1989), affirmed 127 N.J. 286, 604 A.2d 110.

Federal law does not require state to disregard the first \$50 of dependents' Social Security benefits in determining AFDC entitlement. *Baylor v. New Jersey Dept. of Human Services, Div. of Public Welfare*, 235 N.J.Super. 22, 561 A.2d 618 (A.D.1989), affirmed 127 N.J. 286, 604 A.2d 110.

SUBCHAPTER 5. OTHER PAYMENTS

10:82-5.1 General provisions

Payments for the specific classes of service identified in N.J.A.C. 10:82-5.2 and 5.4, and for emergency assistance as defined in N.J.A.C. 10:82-5.10 are not part of the public assistance allowance and shall not be included in the regular monthly grant.

Amended by R.1991 d.7, effective January 7, 1991.
See: 22 N.J.R. 2445(a), 23 N.J.R. 93(a).

Deleted "for expenses of training" as authorized by N.J.A.C. reference.

10:82-5.2 Payment for child care and other services in special circumstances through social services

(a) Definitions, standards and regulations for payment of child care and other services as "special circumstance" payments are promulgated by the Department of Human Services. "Special circumstance" payments are authorized by social service workers through the county welfare agencies. Payments for special circumstances are authorized from Title IV-A, and are payable from the administrative assistance account through the FAMIS system.

(b) Recognizing the division of responsibility between income maintenance workers and social service workers, these regulations are nevertheless contained in this Assistance Standards Handbook to aid the income maintenance worker in being knowledgeable about such services and able to make appropriate referrals.

(c) "Special circumstance" child care payments may be provided through Title IV-A when payment for such care is not available through other resources (see N.J.A.C. 10:81-1.10) and the county welfare agency determines that such care is essential because of any one or more of the following:

1. Serious physical, emotional, mental or cognitive conditions, requiring child care as part of the treatment plan;
2. When illness, death and/or other disruption in family living has created problems, and on the basis of social and/or medical diagnosis, child care is necessary; or

3. The parent, parent-person or parent-minor who normally cares for the child, is in a program of vocational rehabilitation that is not considered REACH participation.

(d) Payment for child care for special circumstances shall not exceed the maximum rates established by the Department of Human Services in N.J.A.C. 10:82-5.3(g). Authorizations for payment of "special circumstance" child care costs are limited to providers of child care who satisfy the criteria in N.J.A.C. 10:82-5.3(c) through (f).

(e) Transportation costs for special circumstance child care services may be provided as follows:

1. When transportation to and from a licensed child care center or day camp, approved by the Department of Health, is not available from any other source, payment for such transportation as a special circumstance (for example, when the caretaker relative is ill) may be made for actual cost up to a maximum of \$10.00 per week per child.

2. When transportation or the cost of transportation of children with special needs (that is, serious physical, emotional, mental or cognitive conditions as defined at N.J.A.C. 10:81-14.18(c)1) to and from child care arrangements is not available from any other source, payment for such transportation may be made for actual cost as a special circumstance payment up to a maximum of \$10.00 per week per child.

(f) Payment policies that govern child care in the REACH program shall be applied to child care for special circumstances to the extent practicable (see N.J.A.C. 10:81-14.18(c)). Payment for child care for REACH participation is set forth at N.J.A.C. 10:81-14.18.

Amended by R.1991 d.7, effective January 7, 1991.
See: 22 N.J.R. 2445(a), 23 N.J.R. 93(a).

In (a): added "special circumstance" language.
Added new subsections (c)-(f).

10:82-5.3 Payment for child care through Title IV-A funds

(a) "Child care" for the purposes of this section means payment for care of a child in both REACH/JOBS and non-REACH/JOBS situations through Title IV-A funding. For individuals participating in the REACH/JOBS program, including individuals eligible for post-AFDC REACH/JOBS benefits, the provisions of N.J.A.C. 10:81-14.18 shall apply. With the exception of (h) below concerning care in approved maternity homes, no child care payment shall be authorized which exceeds the maximum rates established by the Department of Human Services (see (g) below). Actual costs per child per week shall be reasonably related to the hours of child care needed, and to accommodate any special circumstance situation as defined in N.J.A.C. 10:82-5.2(c) on a case-by-case basis. If a child is placed in the care of more than one child care provider in any single week, the total cost of care distributed among providers shall be based on the child care arrangements, the age or special circumstance situation of the child and the hours of care provided.

(b) Further provisions related to child care expenses are:

1. Child care may be provided for participation in a non-REACH/JOBS vocational rehabilitation programs, when such expenses are not available through those programs or sponsoring agencies. Child care payments for vocational rehabilitation purposes can be made directly to the individual or as a vendor payment to the child care provider.

2. Child care expenses for employed AFDC-C and -F segment families (non-REACH/JOBS participants) shall be met by the eligible family through the child care disregard process set forth at N.J.A.C. 10:82-2.8(a)4 and (b) and 4.4(d).

3. Expenses of child care incident to employment of an AFDC-N segment REACH/JOBS individual shall be provided, when necessary, as a direct payment of actual costs of care (not to exceed the maximum rates in (g) below) to the provider of child care and in accordance with N.J.A.C. 10:81-14.18.

4. Expenses of child care incident to employment of an AFDC-C or -F segment REACH/JOBS parent, parent-person or parent-minor shall be provided, when necessary, as a direct payment of actual costs of child care when appropriate (see N.J.A.C. 10:82-2.8(a)4 and (b) and 4.4(d)). The direct payment to the provider of child care costs for employed REACH/JOBS families shall not exceed the maximum child care rates (see (g) below) established by the Department of Human Services for an authorized child care arrangement as described in (c) through (f) below.

5. Expenses of child care during the period of time between REACH/JOBS activities or between an employment-directed activity and the start of employment for an AFDC-C, -F, or -N REACH/JOBS participant. Such payments are termed "bridge" payments and shall not be disregarded in the calculation of the family's assistance payment. Child care may be paid by the agency as a bridge payment through REACH/JOBS up to the receipt of the first pay check or for a period not to exceed one month (see N.J.A.C. 10:81-14.18(d)3).

6. If the family circumstances satisfy any one of the situational criteria at N.J.A.C. 10:82-2.8(b), requiring use of the child care disregard method to meet child care/incapacitated adult care expenses caused by the employment of a REACH/JOBS individual, then REACH/JOBS funds may be used to supplement the cost of child care in any month in which the costs of such child care exceed the Federal child care disregard limits up to the maximum rates established by the Department of Human Services (see (g) below). The supplement is provided by direct payment to the provider only for authorized child care arrangements (see (c) through (f) below).

i. If the REACH/JOBS participant meets the criteria at N.J.A.C. 10:82-2.8(b) for payment of child care through the disregard method, then the child care

disregard is applied to that budget month in which the participant begins payment for child care costs.

7. Authorization of payment of child care costs through REACH/JOBS funds are limited to providers of child care who satisfy the criteria delineated in (c) through (f) below.

8. No payments are authorized for child care expenses incident to the employment of a non-needy caretaker relative.

(c) Licensed child care center rules are:

1. "Licensed child care center" means group care for children, which includes supervised educational work and play experiences under the direction of a trained teacher, including Head Start programs. Licensed child care centers, which provide care, for a fee, to more than five children up to and including age five, are required by law to be licensed and approved by the Division of Youth and Family Services, Bureau of Licensing; or must have a letter of exemption from the Bureau of Licensing; or must be operated under the auspices of the public school system. No payments are authorized to or for any child care center which is subject to the Division of Youth and Family Services license but lacks such a license (see N.J.A.C. 10:81-14.18(e)1).

2. The maximum allowable rate for care in a licensed child care center, regardless of the source or sources of payment, shall be the maximum rates established by the Department of Human Services (see (g) below).

3. In addition to (c)2 above, when transportation or the cost of transportation to and from the licensed child care center is not available from any other source, the CWA may allow the actual cost up to \$10.00 per week maximum, per child. Actual costs of transporting a special needs child, if transportation is not available through any other source, may be authorized through Title IV-A funds (see N.J.A.C. 10:82-5.2(e)2).

4. Child care programs for school-age children shall meet local occupancy, building and fire codes, and have satisfactorily completed an inspection using the DHS REACH School-Age Child Care Interim Guidelines (see N.J.A.C. 10:81, Appendix A); or be operated under the auspices of the public school system.

(d) Family day care provider rules are:

1. "Family day care provider" means care for any age child, by a day care provider in his or her own home; family day care may also be a home for after school care. The suitability of any family home for use as a family day care provider home shall be evaluated and approved as delineated in (d)2 and 3 below.

2. Family day care providers who serve three or more non-sibling children shall be registered pursuant to the Family Day Care Provider Registration Act (N.J.S.A.

30:5B-16 et seq.—Public Law 1987, Chapter 27) to qualify for up to the full maximum payment rates set forth in (g) below. Such family day care providers are registered home providers. Family based care providers of one or two children or sibling children may choose to register under the above Act and receive maximum payment or to provide family day care as an approved home (see (d)3 below).

i. Payment is made to registered home providers who secure a registration certificate or a temporary registration certificate as defined in the above Act. Certificates are obtained from sponsoring organizations in the counties approved and regulated by DYFS, Bureau of Licensing. A family day care provider will receive a registration certificate after the home has been inspected and approved by the sponsoring agency on the "Family Day Care Registration Home Inspection Checklist" (see N.J.A.C. 10:81, Appendix A).

ii. REACH participants serving as family day care providers and referred for registration by the county lead child care agency or the county welfare agency to provide day care for child(ren) of other REACH participants may have the Certificate of Registration fee paid through REACH funds.

3. Family based care providers who are not registered under the Family Day Care Provider Registration Act and who provide care to one or two children or to the sibling children of an individual, are approved for payment following the completion of a standard evaluation process developed by DHS/DEA, the "REACH Home Approval Checklist" (see N.J.A.C. 10:81, Appendix A). Approved homes are reimbursed for services up to a rate which is 60 percent of the State maximum rate set for centers and registered homes (see (g) below) if the home has received approval since September 5, 1988. Homes approved prior to September 5, 1988 are paid at prior approved rates.

4. When it is essential for physical health and safety, the cost of transporting a disabled child to and from the family day care home may be authorized (see N.J.A.C. 10:82-5.2(e)2).

(e) In-home care rules are:

1. "In-home care" means care for a child in the child's usual home and may be used when this is the child care arrangement preferred by the participant.

2. The authorized rate for in-home care shall be provided for all services and supervision pertaining to the care of the children and is not for the performance of household tasks unrelated to child care. Payment shall not be authorized for services provided by a non-needy caretaker relative who resides in the same home as the child when that relative is legally responsible (for example, parent, adoptive parent or legal guardian) for any member of the eligible family; or an individual who is a member of the AFDC assistance unit.

i. The "REACH Home Approval Checklist" (see N.J.A.C. 10:81, Appendix A) shall be used to evaluate in-home care.

3. Payment for in-home care shall be the actual cost, but shall not exceed the 60 percent rates established by the Department of Human Services as set forth in Table II of (g) below for each child in the home requiring this care unless the in-home care provider is registered pursuant to N.J.S.A. 30:5B-16 et seq.—Public Law 1987 c.27. The authorized payment for in-home care shall be deemed to be the full cost for such services and no additional amounts shall be recognized.

(f) Day camp rules are:

1. "Day camp" is construed to mean either the operation of child care center services in an outdoor rather than an indoor setting, or other supervised group care for children with a planned recreational and educational program in an outdoor setting.

2. The use of a day camp is permitted as an alternate form of child care during periods when other facilities are unavailable or in situations where, in the judgement of the county welfare agency, such care is considered necessary or desirable.

3. The maximum allowable rate for care in a day camp, regardless of the source or sources of such payment, shall not exceed the maximum rates established by the Department of Human Services (see (g) below).

4. Payment for child care in a camp program may be authorized if the camp has been inspected and is in good standing with the New Jersey Department of Health (DOH) and appears on the DOH certified listing obtainable from the DOH, Environmental Services; or possesses a valid provisional or certified certificate from DOH.

(g) Statewide maximum child care payment rates are based upon either the age or special needs status of the child and on the number of hours of care provided in the various types of child care arrangements. Included in the types of arrangements are registered homes, approved homes, in-home care, child care centers and day camps, and the hours of care provided (that is, full and part-time day care and care before and after school and during school recesses).

1. "Special needs" children as defined in N.J.A.C. 10:82-5.2 shall be eligible for the appropriate "special needs" child care rate (see Tables II and III below). Appropriate authorization shall be obtained from DFD before placement of the child in care and issuance of payment.

2. Full-time care is defined as care of a child for 30 hours per week or more or six hours or more per day.

3. Before and after school care for school-age children, age five and older, shall be actual costs up to the maximum rate set forth in Tables I, II and III below.

4. Authorization of provider payments for child care is limited to such providers satisfying requirements set forth in (c) through (f) above when child care expenses are not otherwise provided through other resources (see N.J.A.C. 10:81-1.10).

5. The maximum authorized rates for child care are set forth in Tables I, II and III below, as determined by the type of child care arrangements, and based upon either the age or special needs status of the child and the hours of care provided.

IV-A CHILD CARE MAXIMUM RATES

Table I

These rates shall be utilized for:

LICENSED CHILD CARE CENTERS, SCHOOL-AGE PROGRAMS, SUMMER DAY CAMPS

Child's Service Category:	HOURS OF CARE PROVIDED			
	Full-Time 6 hrs. or more per day	Three-Quarter Time* 4 or 5 hrs. per day	One-Half Time* 2 or 3 hrs. per day	One-Quarter Time* 1 hr. per day
Infants/Toddlers (0 up to 2 yrs.)				
Weekly	\$120.90	\$90.70	\$60.45	\$30.25
Daily	\$ 24.18	\$18.14	\$12.09	\$ 6.05
Early Pre-Schoolers (2 up to 2.5 yrs.)				
Weekly	\$120.90	\$90.70	\$60.45	\$30.25
Daily	\$ 24.18	\$18.14	\$12.09	\$ 6.05
Pre-Schoolers (2.5 up to 5 yrs.)				
Weekly	\$ 99.70	\$74.80	\$49.85	\$24.95
Daily	\$ 19.94	\$14.96	\$ 9.97	\$ 4.99
Kindergarteners & School-Agers (5-13 yrs.)				
Weekly	\$ 99.70	\$74.80	\$49.85	\$24.95
Daily	\$ 19.94	\$14.96	\$ 9.97	\$ 4.99
Special Needs Infants/Toddlers (0 up to 2 yrs.)				
Weekly	\$120.90	\$90.70	\$60.45	\$30.25
Daily	\$ 24.18	\$18.14	\$12.09	\$ 6.05
Special Needs Early Pre-Schoolers (2 up to 2.5 yrs.)				
Weekly	\$120.90	\$90.70	\$60.45	\$30.25
Daily	\$ 24.18	\$18.14	\$12.09	\$ 6.05
Special Needs Child(ren) (2.5 up to 19 yrs.)				
Weekly	\$ 99.70	\$74.80	\$49.85	\$24.95
Daily	\$ 19.94	\$14.96	\$ 9.97	\$ 4.99

*Care given for any portion of an hour shall be rounded to the next full hour. For example, one hour and 15 minutes is rounded to two hours.

IV-A CHILD CARE MAXIMUM RATES

Table II

These rates shall be utilized for:

REGISTERED FAMILY DAY CARE HOMES

Child's Service Category:	HOURS OF CARE PROVIDED			
	Full-Time 6 hrs. or more per day	Three-Quarter Time* 4 or 5 hrs. per day	One-Half Time* 2 or 3 hrs. per day	One-Quarter Time* 1 hr. per day
Infants/Toddlers (0 up to 2 yrs.)				
Weekly	\$ 95.50	\$71.65	\$47.75	\$23.90
Daily	\$ 19.10	\$14.33	\$ 9.55	\$ 4.78

HOURS OF CARE PROVIDED

Child's Service Category:	HOURS OF CARE PROVIDED			
	Full-Time 6 hrs. or more per day	Three-Quarter Time* 4 or 5 hrs. per day	One-Half Time* 2 or 3 hrs. per day	One-Quarter Time* 1 hr. per day
Early Pre-Schoolers (2 up to 2.5 yrs.)				
Weekly	\$ 95.50	\$71.65	\$47.75	\$23.90
Daily	\$ 19.10	\$14.33	\$ 9.55	\$ 4.78
Pre-Schoolers (2.5 up to 5 yrs.)				
Weekly	\$ 74.80	\$56.10	\$37.40	\$18.70
Daily	\$ 14.96	\$11.22	\$ 7.48	\$ 3.74
Kindergarteners & School-Agers (5-13 yrs.)				
Weekly	\$ 74.80	\$56.10	\$37.40	\$18.70
Daily	\$ 14.96	\$11.22	\$ 7.48	\$ 3.74
Special Needs Infants/Toddlers (0 up to 2 yrs.)				
Weekly	\$116.30	\$87.70	\$58.15	\$29.10
Daily	\$ 23.26	\$17.54	\$11.63	\$ 5.82
Special Needs Early Pre-Schoolers (2 up to 2.5 yrs.)				
Weekly	\$116.30	\$87.70	\$58.15	\$29.10
Daily	\$ 23.26	\$17.54	\$11.63	\$ 5.82
Special Needs Child(ren) (2.5 up to 19 yrs.)				
Weekly	\$ 95.50	\$71.65	\$47.75	\$23.90
Daily	\$ 19.10	\$14.33	\$ 9.55	\$ 4.78

*Care given for any portion of an hour shall be rounded to the next full hour. For example, one hour and 15 minutes is rounded to two hours.

IV-A CHILD CARE MAXIMUM RATES

Table III

These rates shall be utilized for:

APPROVED HOME DAY CARE

Child's Service Category:	HOURS OF CARE PROVIDED			
	Full-Time 6 hrs. or more per day	Three-Quarter Time* 4 or 5 hrs. per day	One-Half Time* 2 or 3 hrs. per day	One-Quarter Time* 1 hr. per day
Infants/Toddlers (0 up to 2 yrs.)				
Weekly	\$57.30	\$43.00	\$28.65	\$14.35
Daily	\$11.46	\$ 8.60	\$ 5.73	\$ 2.87
Early Pre-Schoolers (2 up to 2.5 yrs.)				
Weekly	\$57.30	\$43.00	\$28.65	\$14.35
Daily	\$11.46	\$ 8.60	\$ 5.73	\$ 2.87
Pre-Schoolers (2.5 up to 5 yrs.)				
Weekly	\$44.90	\$33.70	\$22.45	\$11.25
Daily	\$ 8.98	\$ 6.74	\$ 4.49	\$ 2.25
Kindergarteners & School-Agers (5-13 yrs.)				
Weekly	\$44.90	\$33.70	\$22.45	\$11.25
Daily	\$ 8.98	\$ 6.74	\$ 4.49	\$ 2.25
Special Needs Infants/Toddlers (0 up to 2 yrs.)				
Weekly	\$69.80	\$52.35	\$34.90	\$17.45
Daily	\$13.96	\$10.47	\$ 6.98	\$ 3.49

Special Needs Early Pre-Schoolers (2 up to 2.5 yrs.)	HOURS OF CARE PROVIDED			
	Weekly	Daily	Weekly	Daily
Weekly	\$69.80	\$52.35	\$34.90	\$17.45
Daily	\$13.96	\$10.47	\$ 6.98	\$ 3.49

Special Needs Child(ren) (2.5 up to 19 yrs.)	HOURS OF CARE PROVIDED			
	Weekly	Daily	Weekly	Daily
Weekly	\$57.30	\$43.00	\$28.65	\$14.35
Daily	\$11.46	\$ 8.60	\$ 5.73	\$ 2.87

*Care given for any portion of an hour shall be rounded to the next full hour. For example, one hour and 15 minutes is rounded to two hours.

(h) Homes for unwed mothers: When an eligible child who is an expectant mother is receiving care in an approved maternity home, the maximum rate for such care shall be the applicable rate for that facility as determined by the Division of Youth and Family Services. The CWA may obtain current rate information by communicating with the Division of Family Development, Office of County and Municipal Operation. Such rate shall include all maintenance and care except medical services and shall be made as a vendor payment from the assistant account.

1. An adjustment to accommodate to this absence from the eligible unit's home must be made in computing the family's grant. (See N.J.A.C. 10:82-1.6(b).)

Amended by R.1978 d.438, effective February 1, 1979.

See: 10 N.J.R. 487(b), 11 N.J.R. 75(a).

Amended by R.1981 d.243, effective February 9, 1981.

See: 13 N.J.R. 134(c), 13 N.J.R. 432(c).

(d)1: "No payments ... such a license" added; (d)2: Old text deleted, new text substituted therefor; (d)3 added.

Amended on an emergency basis, R.1981 d.396, effective September 30, 1981 (Operative October 1, 1981) expire November 30, 1981. See: 13 N.J.R. 763(a).

Readopted, R.1981 d.519, effective December 31, 1981. See: 13 N.J.R. 763(a), 14 N.J.R. 102(d).

(a): Added "with the exception ... per child."

Amended by R.1982 d.43, effective March 1, 1982.

See: 13 N.J.R. 134(c), 14 N.J.R. 235(c).

(d)1: Added "no payments ... such a license"; (d)2 deleted and replaced with new text through (d)iii; (h) "\$717.00" was "\$360.00." Amended by R.1982 d.440, effective December 1, 1982.

See: 14 N.J.R. 1169(a), 14 N.J.R. 1461(a).

Originally filed as an emergency adoption (R.1982 d.367) on October 1, 1982. Readopted as R.1982 d.440. Less than whole dollar amounts are rounded down.

Amended by R.1982 d.443, effective December 20, 1982.

See: 14 N.J.R. 952(a), 14 N.J.R. 1459(b).

Implements Federal rules prohibiting direct AFDC payments for child care incident to employment.

Correction: Transportation fee changed from \$3.00 to \$8.00.

See: 17 N.J.R. 1801(c).

Amended by R.1985 d.586, effective November 18, 1985.

See: 17 N.J.R. 1835(a), 17 N.J.R. 2774(b).

Substantially amended.

Amended by R.1986 d.471, effective December 1, 1986.

See: 18 N.J.R. 260(a), 18 N.J.R. 2388(a).

Substantially amended.

Amended by R.1989 d.497, effective September 18, 1989.

See: 21 N.J.R. 1811(a), 21 N.J.R. 3014(a).

Provisions for vendor payment for child care added.

Amended by R.1991 d.7, effective January 7, 1991.

See: 22 N.J.R. 2445(a), 23 N.J.R. 93(a).

Restructured text to delete obsolete rules and expand text related to payment of child care. Revised costs and rates throughout rule. Added new subsection (g) and Tables I and II.

Amended by R.1991 d.556, effective November 4, 1991.

See: 23 N.J.R. 2217(a), 23 N.J.R. 3366(a).

Specified section as payment for child care through Title IV-A funds. In (a): Revised text to specify child care provided in both REACH/JOBS and non-REACH/JOBS situations; deleted references to specific child care providers. Deleted existing (b)1-5 and added new (b)1-8. Restructured subsection (e), deleting (e)2 and recodifying (e)3-4 as (e)2-3.

Amended by R.1992 d.175, effective April 20, 1992.

See: 24 N.J.R. 213(a), 24 N.J.R. 1500(a).

Deleted Tables I and II and added Tables I, II and III setting forth new rate tables. In (g), "special circumstance" revised to "special needs" to describe child care programs and to align language in DHS child care programs.

Amended by R.1993 d.396, effective August 16, 1993.

See: 25 N.J.R. 1692(a), 25 N.J.R. 3772(b).

Amended by R.1994 d.206, effective April 18, 1994.

See: 26 N.J.R. 296(a), 26 N.J.R. 1636(a).

Amended by R.1994 d.430, effective August 15, 1994.

See: 26 N.J.R. 1584(a), 26 N.J.R. 3483(a).

Amended by R.1995 d.532, effective October 2, 1995.

See: 27 N.J.R. 2517(a), 27 N.J.R. 3786(a).

10:82-5.4 Service payments from other sources

Payment for such items as homemaker service and travel costs for health care may be available through Title XX or Medicaid funds, where applicable.

Amended by R.1980 d.28, effective March 1, 1980.

See: 11 N.J.R. 556(a), 12 N.J.R. 86(c).

Previous language covered purchase of homemaker services as administrative/service expense.

Case Notes

Aid recipient entitled to payment of verified travel expenses incurred in visiting son hospitalized for injuries; payment of travel expenses incurred without prior authorization approved in emergency situation. H.H. v. Middlesex Cty. Bd. of Social Services, 1 N.J.A.R. 150 (1980).

10:82-5.5 (Reserved)

Amended by R.1980 d.28, effective March 1, 1980.

See: 11 N.J.R. 556(a), 12 N.J.R. 86(c).

Replaced text covering purchase of health care travel costs as service expense.

10:82-5.6 (Reserved)

Repealed by R.1991 d.7, effective January 7, 1991.

See: 22 N.J.R. 2445(a), 23 N.J.R. 93(a).

Section was "Expenses incident to training."

Case Notes

Parent in training for employment. Essex Cty. Welfare Bd. v. Dept. of Inst. & Agencies, 139 N.J.Super. 191, 353 A.2d 132 (App.Div.1976). Essex Cty. Welfare Bd. v. Dept. of Inst. & Agencies, 139 N.J.Super. 47, 352 A.2d 270 (App.Div.1976).

10:82-5.7 Work/training allowances through REACH

Work/training allowances for expenses incident to REACH participation in work/training activities are set forth at N.J.A.C. 10:81-14.19. No other work/training allowances may be authorized. Those allowances shall be for expenses not otherwise provided through other resources (see N.J.A.C. 10:81-1.10.). The work/training allowance shall be paid by separate check to the assistance payee or authorized vendor. Payment shall be from the administrative account, Title IV-F.

Repeal and New Rule, R.1991 d.7, effective January 7, 1991.

See: 22 N.J.R. 2445(a), 23 N.J.R. 93(a).

Section was "Disallowances; expenses incident to training."

Deleted existing subsection (a)1-4.

10:82-5.8 (Reserved)

Repealed by R.1991 d.7, effective January 7, 1991.

See: 22 N.J.R. 2445(a), 23 N.J.R. 93(a).

Section was "Monthly allowance; expenses incident to training."

10:82-5.9 (Reserved)

Amended by R.1979 d.363, effective November 1, 1979.

See: 11 N.J.R. 377(a), 11 N.J.R. 519(d).

Repealed by R.1991 d.7, effective January 7, 1991.

See: 22 N.J.R. 2445(a), 23 N.J.R. 93(a).

Section was "Child care payments."

10:82-5.10 Emergency assistance

(a) "Emergency Assistance" (EA) is hereby established as any initial, extra or additional payment(s), authorized in accordance with (d) through (n) below during the period of 30 consecutive days immediately following the date the application for EA is made/approved as a result of the occurrence of an emergency as defined in (d) below. Emergency assistance can be issued to AFDC families in receipt of presumptive eligibility benefits or continuing assistance or to non-AFDC families satisfying AFDC eligibility with the exception of those requirements at (a)1 below. The PA-1J form shall be used to determine eligibility for emergency assistance. Once immediate need is apparent, and the family is otherwise eligible, emergency assistance shall be authorized and/or provided as appropriate. Except as noted in (g) below, payments of emergency assistance in AFDC shall be made as vendor payments whenever feasible, or as direct payments to the eligible unit, or as a combination of both.

1. In addition, these regulations apply to an emergency (as described in (d) below) if the applicant meets all requirements for the AFDC program except for the deprivation, enumeration and evaluation of legally responsible relatives requirements (as defined in N.J.A.C. 10:81-2.7, 10:81-11.3 and 10:81-3.5(b)4i).

i. Emergency assistance is not available if the need for such assistance arose because the applicant or the specified relative with whom the applicant is living refused without good cause as defined in N.J.A.C. 10:81-3.18 to accept employment or training for employment.

2. Financial eligibility for all applicants for emergency assistance shall be determined using Schedule II of N.J.A.C. 10:82-1.2 and the maximum income levels for AFDC-C and AFDC-F segments of Schedule I of N.J.A.C. 10:82-1.2.

(b) The goal of the EA shelter/housing program is to prevent homelessness or provide shelter and to coordinate support services, with family participation, at all levels of government and with other appropriate sectors of the hu-

man services delivery community. In an effort to preserve the family structure and stable environment, the EA program is a multistage process designed to minimize the incidence of homelessness. This process begins, if possible, with the prevention of actual homelessness through agency intercession, the provision of temporary housing arrangements for up to three calendar months, with extensions for temporary housing for up to two additional calendar months. In addition, when there is evidence that the joint efforts of the family and the CWA to resolve the emergency have been unsuccessful and no alternative shelter/housing exists, individualized extensions may be provided on a month by month basis for temporary shelter/housing when the need for each such extension is documented in the case record in accordance with the provisions at (f)1iii below. The EA shelter/housing program is thus designed to provide, with reasonable certainty, for the initial and/or continuing emergency shelter/housing needs of otherwise eligible AFDC families. It is acknowledged that there is a shared responsibility between the family and the CWA with other governmental/non-governmental entities at the municipal, county, and State levels.

1. CWAs shall attempt to utilize all reasonably available resources and services offered throughout the community to meet specific needs of EA families.

(c) In an effort to minimize the incidence of homelessness among New Jersey's AFDC recipient population, the CWAs shall be alert to the following circumstances which may reasonably be assumed to, if not addressed, result in imminent or actual homelessness of the family. Upon identification of any of the indicators identified in (c)1 through 5 below, the agency representative should review the case record to determine if the family should be referred to appropriate social services personnel within the agency to help the family plan to ensure the availability of uninterrupted housing.

1. When shelter costs equal or exceed total recorded income to the AFDC family and the client is unable to document other sources of income, for example, loans from relatives, that enable the family to meet monthly housing/living expenses;

2. When the CWA receives information to the effect that the family's utility bills are in arrearages or utilities have been shut off;

3. When the family's income is reduced as a result of reduction in the amount of AFDC benefits or other available income, for example, loss of the \$50.00 disregarded child support payment, a child in the family loses AFDC eligibility due to age, or a member of the family dies;

4. When the family's rent which had previously been affordable is increased to an amount which makes the family's current housing costs appear to exceed its available income; or

5. When the CWA receives information that the family is involved in a tenant/landlord dispute or threatened foreclosure.

i. When a tenant/landlord dispute or threatened foreclosure exists, the CWA shall assist the family in an attempt to preclude the loss of existing permanent housing, including referral to appropriate legal/service agencies.

(d) Emergency assistance is available in the following circumstances:

1. When there has been substantial loss of housing, food, clothing, or household furnishings by fire, flood or other similar disaster and the eligible family is in a state of homelessness and the county welfare agency determines that the providing of shelter/housing and/or food and/or emergency clothing, and/or minimum essential house furnishings are necessary for health and safety, such needs may be recognized in accordance with the regulations and limitations in this section.

2. Where there is documentation of a pending eviction or foreclosure, such as a tenancy complaint filed by the landlord, an order from a court for eviction or foreclosure, an actual eviction or foreclosure has occurred, or when prior housing is no longer available, and the eligible family demonstrates a lack of realistic capacity to plan for substitute housing as defined in (d)2iii below, emergency assistance shall be authorized in accordance with (d)2i and ii below. In extreme circumstances of pending eviction or actual eviction, where documentation, as required, does not exist, a letter from a landlord or other person serving in such capacity (relative/friend with whom the family is residing), subject to CWA verification, stating that eviction is imminent or has occurred may be accepted by the CWA.

i. Payment may be authorized for retroactive rental, mortgage and/or utility payments if it will prevent actual eviction or foreclosure in accordance with (f)2 below.

ii. In situations of homelessness due to actual eviction or foreclosure or when prior housing is no longer available, payment shall be authorized for emergency shelter in accordance with (e), (f) and (g) below.

iii. Families are expected to manage their funds and maintain their children in a safe living environment. Lack of realistic capacity to manage funds, maintain safe housing and plan for substitute housing exists in the following circumstances:

(1) When the family can demonstrate that there was insufficient time to secure substitute housing between receipt of notice of imminent loss of housing and actual eviction, foreclosure or loss of prior permanent housing;

(2) When the family can demonstrate or signs a document, prepared by the CWA, certifying that available funds and resources, including liquid resources at N.J.A.C. 10:82-3.1(d), were exhausted on items deemed appropriate, necessary or reasonable for decent living and such expenditures were made as a result of a significant occurrence or situation, not due to the meeting of day to day living cost items. The specific event(s) or circumstance(s) upon which the granting of EA is based must be documented in the case record. In addition to food, clothing and housing, other appropriate items include, but are not limited to, expenditures for a family emergency, for example, attending the funeral of a family member, or excessive costs for unreimbursed medical expenses; or

(3) When the family demonstrates functional incapacity, for example, evidence of alcohol or drug abuse, which would prevent them from planning for or securing substitute housing.

(A) In situations where the family demonstrates functional incapacity, a protective payee shall be assigned or AFDC and EA benefits issued in the form of restricted or vendor payments in accordance with the criteria set forth at N.J.A.C. 10:81-4.5 and 4.9 through 4.14.

3. In situations where an applicant or recipient indicates that he or she and his or her children have left their customary residence and the family is in a state of homelessness due to imminent or demonstrated domestic violence which imperils the health and safety of one or more members of the eligible family.

i. Temporary living arrangements during the period between the occurrence of the incidence of domestic violence and the application for EA do not negate the existence of a state of homelessness.

4. In instances where Division of Youth and Family Services, in consultation with the CWA, certifies that placement of the children in foster care is imminent due only to the fact that the family is being subjected to a serious health or life threatening situation because of the lack of adequate housing, EA shall be provided in accordance with the provisions of this section.

5. If at time of application for EA benefits, or at any time during the receipt of EA benefits, the CWA determines that a family is ineligible for EA, that determination must be documented in the case record, including the specific reason(s) for the denial/termination of benefits. Any adverse action concerning the provision of EA benefits is subject to the notice requirements specified at N.J.A.C. 10:81-7.

(e) There is a shared responsibility between the family and the CWA to minimize the incidence of homelessness, secure emergency housing, address the circumstances that contributed to a family's imminent or actual homelessness, and ultimately obtain affordable permanent housing. In order to resolve a situation of imminent or actual homelessness, the CWA shall advise the family of the conditions of eligibility for the ongoing receipt of EA as delineated in (e)1 below and, in conjunction with the family, develop a service plan to help the family secure and maintain affordable permanent housing as specified in (e)2 below.

1. While receiving EA for temporary shelter/housing, the family has a continuing responsibility to seek alternative affordable permanent housing. The family shall be issued Form PA-70, Notice of Conditions of Eligibility for the Receipt of Emergency Assistance, a written notice which must be signed by both the CWA representative and the client, which signifies that the family has been made aware of its responsibilities set forth below.

i. The family shall make every effort within its ability to secure affordable permanent housing and to document such efforts in writing. The family shall:

(1) Begin the search for permanent housing no later than the date specified in Form PA-70;

(2) Make a reasonable number of contacts with realtors or potential landlords each week until permanent housing is secured. The number of weekly contacts to be made shall be determined by the CWA, in conjunction with the family, taking into consideration medical and/or social circumstances. For example, it shall be considered reasonable for a person who is not suffering from physical or mental incapacity to conduct up to 10 contacts per week. Where good cause for non-participation in housing searches exists, Form PA-70 shall reflect the applicable reason(s).

(A) Contacts may be made by personal visit or any other method specified in Form PA-70;

(3) Provide written documentation of all contacts. Such documentation shall consist of the date of the contact, the telephone number (if applicable), the address (location) of the housing site, and the name of the person contacted (landlord or agent);

(4) Pursue and take advantage of Section 8 Housing Certificates, local public housing and/or other housing subsidy programs specified in Form PA-70;

(5) Utilize available community resources and services specified in Form PA-70 which could assist the family in securing permanent housing; and

(6) Notify the CWA immediately upon locating available housing which is both affordable and permanent.

ii. Refusal, without good cause, to cooperate with the provisions specified in or to sign the Notice of Conditions of Eligibility for the Receipt of Emergency Assistance, shall render the family ineligible for continuing EA benefits.

(1) Willingness on the part of the family to sign Form PA-70 and cooperate in the search to secure permanent housing shall establish eligibility for continuing EA benefits, if otherwise eligible.

2. The CWA shall have responsibility to assist the family to resolve the emergency situation and to assist the family to secure a suitable permanent housing arrangement. Upon CWA contact with the EA family, the CWA shall:

i. Assess the emergent situation and initiate appropriate action, for example, intercede in tenant/landlord disputes, arrange for payment of back rent, mortgage or utilities, arrange for the immediate provision of appropriate shelter in situations of actual homelessness, and so forth;

ii. Explain to the family, as well as provide a written copy of, EA rights and responsibilities;

iii. Discuss with the EA family the emergency shelter/housing arrangement which the CWA determines, in accordance with (f) below, will meet the family's immediate emergency shelter/housing needs and takes into consideration the family's individual circumstances;

iv. Explain that a written service plan shall be developed, within 10 working days of the EA authorization date, to provide an individualized plan aimed at addressing those circumstances which contributed to the family's homeless situation and limit its ability to secure and/or maintain permanent housing (for example, insufficient funds, substance abuse, mental illness). At the CWA's option, a service plan need not be developed where EA benefits are provided solely for back rent/mortgage and/or utility payments.

(1) Arrange a meeting with the family to prepare the plan which shall be signed by both the client and the CWA representative. The CWA shall retain the original plan and provide a copy to the family.

(2) The individualized service plan may include, but is not limited to:

(A) Selection of a housing arrangement which takes into consideration the family's individual circumstances, such as mental and/or physical problems;

(B) Provision of services, as set forth at N.J.A.C. 10:82-5.10(1);

(C) Referral to affordable housing (if known) as well as referral to and/or application for other available benefit entitlements or services, for exam-

ple, Social Security Administration, Department of Community Affairs, Community Mental Health Services, drug and/or alcohol rehabilitation program; or

(D) If appropriate, referral to REACH/JOBS. If not accepted by REACH/JOBS case management, referral to another training or rehabilitation program, such as the Job Training Partnership Act (JTPA) or vocational rehabilitation, likely to result in employment or the securing of a job leading to the maintenance of affordable permanent housing; and

v. As a sound management tool, the CWA shall routinely reevaluate and/or revise Form PA-70 and the service plan as warranted by changes in the EA family's shelter/housing needs and/or other pertinent circumstances.

(f) The county welfare agency shall authorize payment of the actual cost of adequate emergency shelter/housing arrangements at the most reasonable rate available, taking into consideration family circumstances and services provided, for three calendar months inclusive of the month in which EA benefits are first provided. If at the end of the third month for which EA has been provided permanent housing has not been secured, EA extensions may be authorized, if necessary, for up to two additional months. Such emergency shelter/housing, wherever possible, shall be in the municipality in which the eligible family currently resides. If, however, shelter/housing is not available at the most reasonable rate, taking into consideration family circumstances and services provided, within the municipality of customary residence, the recipient, as a condition of eligibility, shall be obliged to accept shelter/housing which is situated outside the municipality of customary residence. In situations where the county welfare agency determines that despite efforts of both the family and the agency, permanent living arrangements are unavailable, an extension of emergency assistance may be authorized in accordance with the provisions of (f)1iii below.

1. Placement of the family in a hotel, motel, or shelter shall be at the most reasonable rate, for a temporary period. The CWA shall determine, after discussion with the EA family, the emergency shelter/housing arrangement which will meet the family's immediate emergency shelter/housing needs and takes into consideration the family's individual circumstances.

i. The regular grant of assistance (including calculated earned income and exempt income) is not to be counted in the determination of the amount of emergency assistance payments authorized for emergency shelter arrangements, except as noted in (f)5 below.

ii. The CWA shall be responsible for payment of all costs related to the placement of the family in a hotel, motel, or shelter under EA.

iii. If at the end of the fifth month for which EA has been provided permanent housing has not been secured, individualized extensions beyond the five months for temporary shelter/housing may be provided, on a month by month basis, when no alternate plan is available and the need for such extension(s) is documented in the case record, and is for any of the reasons stipulated in (f)1iii(1) through (3) below. At the time the determination of eligibility for the first such extension is made, the CWA shall reevaluate the family's situation, including review of the service plan, possible referral for social services, such as DYFS or CWA social services unit, and/or assignment of a protective payee, if deemed appropriate in accordance with the criteria set forth in N.J.A.C. 10:81-4.9 through 4.14.

(1) Due to illness or incapacity of the parent or of another person which requires the parent's presence in the home on a substantially continuous basis, the individual(s) is unable to perform activities of daily living including participating in permanent housing searches and/or complying with any of the other provisions in Form PA-70;

(2) Alternate permanent housing is anticipated to be available or a change in circumstance, for example other sources of income, is identified which will, within two months subsequent to the extension month, eliminate the need for such extensions; or

(3) When no alternate shelter/housing arrangement is available, the family will otherwise be without shelter/housing, and the EA recipient family has satisfactorily fulfilled its permanent housing search responsibilities or is determined unable to make such permanent housing searches and continues to require additional EA shelter/housing assistance.

2. Payment may be authorized for up to any three calendar months of retroactive rental or mortgage payments and/or six calendar months of retroactive utility payments if it will prevent actual eviction or foreclosure.

i. Payments for more than three calendar months of retroactive rental or mortgage payments and/or six months of retroactive utility payments may be made only under extraordinary circumstances subject to authorization by DEA.

ii. Basic utilities are those that are necessary to make a dwelling habitable. At a minimum, basic utilities shall include electric, water, a fuel source for heating and cooking and, where applicable, sewerage and garbage disposal. In those instances where it is necessary to pay a utility deposit in order to reinstate utilities, such payment is acceptable under EA.

3. When required to establish the family in a more permanent living arrangement, allowances may be authorized for expenses related to that arrangement including, but not limited to, security deposits for rent and utilities, and one month's advance rent.

4. Payment may be authorized for moving expenses, including furniture storage, incident to the emergency and when required to establish the family in a more permanent living arrangement.

5. Temporary rental assistance may be authorized in order to resolve imminent or actual homelessness by enabling families to meet temporary housing costs and shall be expedited by the CWA to preclude the loss of an existing or potential housing arrangement (see (f)5i and ii below). Temporary rental assistance may be authorized by the CWA upon initial authorization of EA or at any time during the receipt of EA as follows:

i. In addition to back rent/utility payments, temporary rental assistance may also be issued in accordance with (f)5iii below, when the family is facing pending eviction from permanent housing which had previously been affordable, for reasons such as, but not limited to, loss of employment, temporary unemployment or underemployment, and it is anticipated that such permanent housing will become affordable; or when it is determined that maintaining the family in its current housing arrangement is both the least costly alternative and serves to preserve the family structure and stable environment and the family continues to search for affordable housing in accordance with (f)5iii(2) below.

(1) Temporary rental assistance may be provided for that period of time necessary to resolve potential homelessness, but shall not exceed 12 months when computed in combination with the number of months of back rent provided immediately prior to the issuance of temporary rental assistance, if any.

(A) Example: If EA back rent payments are authorized to cover a period of three months immediately prior to the issuance of temporary rental assistance, a maximum of nine months of rental assistance may be provided.

(B) Example: If EA back rent payments are provided and no additional EA benefits are required to resolve that emergency and the family subsequently reapplies for EA, temporary rental assistance may be provided for up to 12 months.

ii. Temporary rental assistance may be authorized, on a case by case basis based on a review of the family's circumstances, for a period of up to 12 calendar months for families who have experienced an actual state of homelessness and the family is able to locate a housing arrangement or can be accommodated in a housing arrangement in lieu of a temporary housing arrangement. Temporary rental assistance may also be authorized for a period of up to 12 calendar months to EA families temporarily residing in hotels, motels, or shelters and can now be accommodated in a more permanent living arrangement.

iii. Issuance of temporary rental assistance is governed by the following:

(1) Temporary rental assistance shall be provided for those housing arrangements which can be considered of a "permanent nature" by the family and/or the community.

(2) The determination of the CWA to authorize and/or continue temporary rental assistance shall be contingent upon the family's cooperation to comply with the eligibility requirement to conduct or continue to conduct permanent housing searches to find an affordable housing arrangement as delineated in (e)1 above.

(3) The amount of the authorized temporary rental assistance shall take into account all housing costs including basic utilities.

(4) CWAs shall authorize temporary rental assistance of up to \$250.00 per month to supplement an EA family's regular AFDC grant and/or earned income. CWAs shall ensure, however, that the recipient retains 35 percent of the family's monthly income including any SSI benefits or other income received by a family member residing in the household. Amounts in excess of 35 percent may be retained by the family when it is determined that the family has special needs which must be documented in the case record. The portion of the family's regular grant identified as its share of rental costs issued in accordance with N.J.A.C. 10:81-4.5(c) as well as any other available income shall represent the family's contribution towards the monthly housing costs.

(5) Requests for temporary rental assistance in amounts in excess of \$250.00 must be approved by DEA prior to issuance.

(6) Temporary rental assistance may be continued for EA families who lose ongoing AFDC eligibility due to the receipt of or an increase in earned income only under extraordinary circumstances subject to authorization by DEA. Such requests shall be evaluated on an individual basis to determine whether or not temporary rental assistance will be continued and at what level. Such rental assistance may be authorized only for that period of time necessary to facilitate the family's transition to housing which is affordable without the provision of EA benefits, but in no event longer than three calendar months.

(A) AFDC cases closed due to other AFDC program regulations, for example, no eligible child in the home, and so forth, shall not be eligible for continued temporary rental assistance.

6. Counties may be authorized to operate approved EA programs in order to serve specific population target groups such as those families who are dysfunctional as a result of suffering from substance abuse, and/or other debilitating conditions. Such special initiatives will be implemented through the submission and approval of plans designed to address locally suited alternatives to homelessness. Plans shall have prior written approval from DEA before funding can be authorized and shall:

i. Include the goal of reducing the use of motels/hotels for emergency placements as well as facilitate a more humane response to EA families in need of support services beyond simply shelter/housing requirements;

ii. Describe the target group, the number of individuals to be served by the program components, type of services to be provided, cost estimates, cost effectiveness and procedures for monitoring/evaluation of the local initiatives; and

iii. Include a coordinated involvement of non-profit organizations as well as signify local collaborative efforts undertaken through the Human Services Advisory Council (HSAC) and Comprehensive Emergency Assistance System (CEAS).

(g) When an application for EA shelter/housing has been filed, the need for appointment of a protective payee or issuance of AFDC and EA benefits in the form of a restricted or vendor payment shall be evaluated/issued in accordance with the criteria set forth at N.J.A.C. 10:81-4.5 and 4.9 through 4.14. At time of application, the family shall be advised that, if a second or subsequent application for EA shelter/housing benefits is approved within a 12 consecutive month period, the CWA shall assign a protective payee before payment is issued or AFDC and EA benefits shall be issued in the form of a restricted or vendor payment. The CWA shall appoint a protective payee or issue AFDC and EA benefits in the form of restricted or vendor payment for a second or subsequent shelter/housing emergency within a 12 month period unless extenuating circumstances, documented in the case record, warrant issuance of unrestricted payment(s) to the family.

(h) Emergency food allowance: When food is not available from any other source, an amount of \$4.50 per day per person shall be authorized and allowed until such time as other funds become available (for example, next regular assistance payment, support payment, receipt of earnings, receipt of food stamps).

1. When it is necessary to provide temporary living arrangements for a family by utilizing emergency shelter/housing in a hotel, motel, or other facility in which cooking facilities are not available or are determined by the county welfare agency to be inadequate, payments for restaurant meals, not to exceed \$7.50 per person per day, shall be authorized and allowed until such time as other funds become available (for example, next regular assistance payment, support payment, receipt of earnings, receipt of food stamps).

(i) Emergency clothing allowance: Funds from the regular assistance grant or funds considered in developing the amount of that grant are not to be considered in computing the amount of payment for replacement of clothing lost or destroyed in the incident or occurrence giving rise to the emergency. When necessary, payments to enable members of the eligible unit to purchase minimum essential clothing for physical health and safety may be granted, not to exceed the amounts stated below:

- 1. Adult- \$86.00;
- 2. Child, age 13 and over- 86.00;
- 3. Child, age 5 through 12- 48.00;
- 4. Child, birth through four- 29.00.

(j) Emergency house furnishings allowance: Allowances for those items deemed urgent and essential to the physical health and safety of the eligible unit shall not exceed the maximums listed below.

1. Funds from the regular assistance grant or funds considered in developing the amount of that grant are not to be considered in computing the amount of payment for replacement of house furnishings lost or destroyed in the incident or occurrence giving rise to the emergency.

2. Replacement of house furnishings is not solely limited to replacement of items lost or destroyed in the incident that gave rise to the emergency. For example, a family may be moving from a hotel/motel shelter or furnished apartment into an unfurnished living arrangement and they do not possess essential furniture. Another example of when the use of EA funds is appropriate for replacement purposes is when an item such as a refrigerator may wear out which, because of the nature of the item, is essential for the health and well-being of the family.

Number of persons in eligible unit	1	2	3	4	5	6 or more
Kitchen furnishings:						
Range	\$130	\$130	\$130	\$130	\$130	\$160
Refrigerator	200	200	220	220	220	260
Washing machine			200	200	200	200
Dinette set	45	45	65	65	85	85*
Kitchen equipment	50	60	60	72	72	80
Living room furnishings:						
Couch and chair(s)	125	175	175	225	225	225
Table	20	20	20	20	20	20
Lamp(s)	20	20	20	35	35	35
Floor covering	25	25	25	25	25	25
* Over 6—\$12 per additional person						
Bedroom and bath furnishings:						
Box spring, mattress, and frame, per set		\$110 twin			\$130 double	
Bunk beds, per set of 2		\$135				
Crib with mattress		\$ 50				
Chest(s) of drawers		\$ 50 per person				
Bed and bath linens and miscellaneous furnishings		\$ 36 per person			(Not to exceed \$200 per family)	
Window coverings		\$2.50 per window				

Note: The required amount of sales tax may be authorized in addition to the above maximum allowances.

(k) Temporary care assignments for AFDC children: In an emergency situation such as a mother's being hospitalized or otherwise suddenly removed from the home and there is no other parent in the home, the county welfare agency may deem it necessary to provide a temporary care arrangement for the child(ren) in accordance with N.J.A.C. 10:81-4.7. Payment shall be authorized according to the conditions stated in subsection (a) of this section for a period not to exceed two calendar months following the month in which the placement is made (by which time permanent arrangements will have been made by Division of Youth and Family Services, or eligibility determined for AFDC-C segment if appropriate). Payment shall be as follows:

i. When the child is placed in a temporary home or shelter, the rate shall not exceed \$5.50 per day per child;

ii. When arrangement is made for temporary care in the child's own home, payment to the individual providing such care shall be at the most reasonable rate available, but shall in no event exceed the rate for homemaker service in that community, regardless of the number of children involved.

(l) Services: The following services shall be performed by CWA personnel and must, where appropriate, be provided to all cases granted EA benefits and are chargeable as Title IV-A funds.

- i. Information;
- ii. Referral;
- iii. Counseling;
- iv. Assistance in securing family shelter, including transportation;
- v. Assistance in arranging for child care; and
- vi. Referral for legal services.

(m) Return of child from foster care provisions are as follows:

1. The CWA may authorize emergency assistance to a family on behalf of a child for the purpose of facilitating the return of a child from foster care placement when the appropriate District Office Manager (DOM) of the Division of Youth and Family Services (DYFS) has approved a specific plan for the return of a child from foster care placement and all of the following conditions exist:

- i. The emergency assistance has not been used on behalf of this child before under this provision;
- ii. The CWA is in receipt of detailed written verification (Form PA-60, Certification of Return from Foster Care) from DYFS that the return is barred solely by insufficient or inadequate shelter, food, clothing or home furnishings and there is no other way by which a deficiency can be remedied;
- iii. The appropriate DOM of DYFS has certified that the return of the child will be effected on a specific date subject to remedy of the deficiency;
- iv. The child had been living with his or her parents or other relatives as specified in N.J.A.C. 10:81-3.11 within six months prior to the month in which a grant of emergency assistance is provided and the return from placement will be to such a parent or relative;
- v. Upon return of the child, AFDC eligibility will exist.

2. Payments of emergency assistance as identified in this section shall be authorized during the 30-day period

immediately prior to the expected return date. If the child has not been returned by the date indicated, or within 10 working days thereafter, such grants as have not been expended shall be returned to the CWA.

3. Allowances:

i. Housing: Allowances may be made for the cost of change in permanent housing arrangement including moving costs, security and utility deposits and/or advance rent, when necessary or cost of improvement of existing housing based on the most reasonable cost available.

(1) Allowances made for the cost of change in permanent shelter arrangements must be documented as necessary for the return of the child. Reasons for such change may include, but are not limited to, the following conditions: inadequate space in current living arrangements; building or health code violations; or lack of access to necessary services for the child.

(2) Where there are buildings and health code violations, they shall be referred to and documented by the appropriate agency(ies) with authority over such matters.

(3) Where an allowance is needed for security and utility deposits, and/or advance rent the CWA shall establish such deposits on behalf of the eligible unit.

(4) Allowances for improvements to existing shelter are limited to improvements involving nonstructural changes and in no event shall be authorized if the family does not own the dwelling nor is responsible for such improvement under the terms of a lease or written rental agreement.

ii. Food: An allowance for food may be provided in accordance with (h) above.

iii. Clothing: An allowance for clothing for the child to be returned from foster care placement may be provided in accordance with (i) above.

iv. Home furnishings: An allowance for the child for house furnishings necessary to facilitate the return of the child from foster care placement may be made in accordance with (j) above.

4. Upon return of the child, it is the responsibility of the family to which the child is being returned to meet the shelter, food, clothing and home furnishings needs within existing resources.

5. CWAs shall report to DEA on emergency assistance payments as to those cases for which emergency assistance was granted to return a child from foster care placement. DYFS shall monitor such cases in order to evaluate the effectiveness of such assistance in reducing foster care placements and foster care costs.

6. In addition to notice requirements set forth in N.J.A.C. 10:81-7.1, a copy of any denial notice for emergency assistance under these provisions shall be provided to the appropriate DOM.

(n) Whenever a family requiring the provision of EA benefits moves from one county to another, the following provisions shall apply:

1. Where the county of origin (county where the emergency occurred) places the family in out-of-county emergency housing, that county shall retain financial responsibility for shelter payments, regular assistance payments and issuance of food stamp benefits, as well as other functions of case management until the homelessness is resolved and permanent housing obtained. The county of origin shall provide transportation to assist the family in negotiating their ATP. Such out-of-county placements may occur as a result of emergency housing shortages or prohibitive in-county temporary housing rental costs. If mutually agreed upon by the parties involved, the new county of residence may assume full responsibility for administration of the case.

2. When an EA recipient family residing in one county voluntarily takes up residence in another county, without CWA intercession, the new county of residence shall assume responsibility for EA payments, as well as all other case management functions, pursuant to case transfer provisions at N.J.A.C. 10:81-3.27. (Note: If the family has been receiving food stamp benefits, the food stamp case shall be closed in the county of origin and the family advised that they must apply for food stamp benefits in their new county of residence.)

3. When a non-EA AFDC recipient family voluntarily moves from one county to another county, with or without CWA intercession, and a subsequent change in circumstances results in the need for EA, the new county of residence shall immediately assume responsibility for EA payments, as well as all other case management functions, pursuant to case transfer provisions at N.J.A.C. 10:81-3.27.

4. The family's right to uninterrupted assistance shall not be jeopardized because of interagency disputes concerning case management responsibilities.

As amended, R.1977 d.220, eff. August 17, 1977.

See: 9 N.J.R. 434(e).

As amended, R.1978 d.415, eff. December 6, 1978.

See: 10 N.J.R. 432(a), 11 N.J.R. 17(c).

Amended by R.1980 d.28, effective March 1, 1980.

See: 11 N.J.R. 556(a), 12 N.J.R. 86(c).

(b)1: Deleted requirement of special review and meeting for State matching; amended language.

Amended by R.1980 d.166, effective May 1, 1980.

See: 12 N.J.R. 120(b), 12 N.J.R. 278(f).

Added paragraph (d)4.

Amended by R.1980 d.552, effective February 1, 1981.

See: 12 N.J.R. 584(a), 13 N.J.R. 101(a).

(c)1i added. (c)3 Regular assistance grant or funds not to be considered in replacement computation. (c)4 Regular assistance grant or funds not to be considered in replacement computation. (c)4i "furniture and appliances" deleted.

Amended by R.1982 d.207, effective July 6, 1982.

See: 14 N.J.R. 375(a), 14 N.J.R. 709(d).

(a)4. The amendment deletes the specification that the price limits on house furnishings apply only to new items.

Amended by R.1982 d.376, effective November 1, 1982.

See: 14 N.J.R. 698(a), 14 N.J.R. 1215(a).

Provides for AFDC emergency assistance to return children from foster care.

Amended by R.1982 d.440, effective December 1, 1982.

See: 14 N.J.R. 1169(a), 14 N.J.R. 1461(a).

Originally filed as an emergency adoption (R.1982 d.367) on October 1, 1982. Readopted as R.1982 d.440. Less than whole dollar amounts are rounded down.

Correction: Text had been omitted throughout section.

See: 17 N.J.R. 2465(b).

Emergency Amendment R.1986 d.130, effective March 27, 1986 (expires May 26, 1986).

See: 18 N.J.R. 849(a).

Substantially amended.

Amended by R.1986 d.203, effective June 2, 1986.

See: 17 N.J.R. 2336(a), 18 N.J.R. 1200(b).

(c) added text "two calendar months".

Amended by R.1986 d.471, effective December 1, 1986.

See: 18 N.J.R. 471(a), 18 N.J.R. 2388(b).

(c)1ii added.

Correction: (c)1iii was adopted on an emergency basis and expired on May 26, 1986. Rule reverted back to original text.

See: 19 N.J.R. 663(a).

Amended by R.1987 d.466, effective November 16, 1987.

See: 19 N.J.R. 1171(b), 19 N.J.R. 2190(a).

Substantially amended.

Emergency Rule, R.1988 d.194, effective March 31, 1988 (operative April 1, 1988, expires April 30, 1988).

See: 20 N.J.R. 933(a).

Added (d)1viii.

Emergency Amendment and Concurrent Proposal R.1988 d.358, effective July 7, 1988 (expires September 5, 1988).

See: 20 N.J.R. 1956(a).

Added (d)1viii.

Amended by R.1989 d.497, effective September 18, 1989.

See: 21 N.J.R. 1811(a), 21 N.J.R. 3014(a).

Emergency assistance provided upon demonstration of immediate need. Provisions for victims of domestic violence added at (e)1ii. Administrative Correction to (d)1.

See: 22 N.J.R. 1938(b).

Amended by R.1991 d.522, effective October 21, 1991 (operative November 1, 1991).

See: 23 N.J.R. 967(b), 23 N.J.R. 3144(b).

Revisions made to provide immediate rental assistance, extensions of eligibility period and emergency resolution planning.

Amended by R.1992 d.261, effective June 15, 1992 (operative July 1, 1992).

See: 24 N.J.R. 1194(a), 24 N.J.R. 2258(a).

Revised (a)1ii as (a)2, adding new Schedule references to text.

Amended by R.1994 d.430, effective August 15, 1994.

See: 26 N.J.R. 1584(a), 26 N.J.R. 3483(a).

Cross References

Home Energy Assistance program emergency energy assistance, see N.J.A.C. 10:89-3.4.

Case Notes

Determination of eligibility for emergency assistance. *Williams v. Dept. of Human Services*, 160 N.J.Super. 306, 389 A.2d 987 (App.Div. 1978). *Barrera v. Dept. of Institutions and Agencies*, 150 N.J.Super. 41, 374 A.2d 1219 (App.Div.1977). *Burton v. Dept. of Institutions and Agencies*, 147 N.J.Super. 124, 370 A.2d 878 (App.Div.1977). *Boyd v. Dept. of Institutions and Agencies*, 126 N.J.Super. 273, 314 A.2d 79 (App.Div.1974), certif. den. 65 N.J. 281, 321 A.2d 242 (1974). *King v. Dept. of Institutions and Agencies*, 124 N.J.Super. 518 (App.Div.1973).

Vacating judgment for possession in summary dispossess action for nonpayment of rent was warranted. Housing Authority of Town of Morristown v. Little, 135 N.J. 274, 639 A.2d 286 (1994).

State constitution did not oblige state to provide emergency shelter assistance. Franklin v. New Jersey Dept. of Human Services, 225 N.J.Super. 504, 543 A.2d 56 (A.D.1988), affirmed 111 N.J. 1, 543 A.2d 1.

Five-month limitation on emergency shelter assistance did not violate state equal protection concepts. Franklin v. New Jersey Dept. of Human Services, 225 N.J.Super. 504, 543 A.2d 56 (A.D.1988), affirmed 111 N.J. 1, 543 A.2d 1.

Statutory definition of AFDC did not mandate any specific level or form of benefits. Franklin v. New Jersey Dept. of Human Services, 225 N.J.Super. 504, 543 A.2d 56 (A.D.1988), affirmed 111 N.J. 1, 543 A.2d 1.

Statute defining AFDC did not require Department to seek additional appropriations for shelter program. Franklin v. New Jersey Dept. of Human Services, 225 N.J.Super. 504, 543 A.2d 56 (A.D.1988), affirmed 111 N.J. 1, 543 A.2d 1.

Five-month limit on emergency shelter assistance did not violate policy of avoiding homelessness. Franklin v. New Jersey Dept. of Human Services, 225 N.J.Super. 504, 543 A.2d 56 (A.D.1988), affirmed 111 N.J. 1, 543 A.2d 1.

Five-month maximum for emergency shelter assistance benefits did not violate AFDC program or constitutional right to safety and happiness. Franklin v. New Jersey Dept. of Human Services, 111 N.J. 1, 543 A.2d 1 (1988).

AFDC recipient who lost monthly benefits check entitled to emergency assistance in amount equal to monthly AFDC grant to prevent imminent homelessness. C.S. v. Essex Cty. Dept. of Citizens Services, 6 N.J.A.R. 1 (1979).

Emergency shelter assistance denied; loss of home by forced sale prior to scheduled mortgage foreclosure sheriff's sale constituted loss of shelter due to circumstances within petitioner's control. J.C. v. Monmouth Cty. Bd. of Social Services, 2 N.J.A.R. 173 (1980).

10:82-5.11 (Reserved)

R.1984 d.240, effective June 18, 1984 (operative July 1, 1984—contingent on enactment of this State's Appropriations Act for Fiscal Year 1985 authorizing the proposed increase in public assistance allowance standards).

See: 16 N.J.R. 832(a), 16 N.J.R. 1608(a).

New rule.

Amended by R.1985 d.341, effective July 1, 1985 (operative July 1, 1985).

See: 17 N.J.R. 880(a), 17 N.J.R. 1656(a).

Table changed for eligibility standards.

Amended by R.1987 d.252, effective June 15, 1987.

See: 19 N.J.R. 500(a), 19 N.J.R. 1094(a).

Supplemental payment eligibility amended.

Public Hearing: To include testimony on issues governing the adequacy of the increase in the amended regulations in light of the current cost of living in New Jersey and the relationship of that increase to an adequate standard of need for AFDC and GA recipients.

See: 19 N.J.R. 1658(b).

Administrative Correction to (j).

See: 24 N.J.R. 1499(a).

10:82-5.12 Disregarded child support (DCS) payments

For any month in which an eligible family receives AFDC and a current child support collection which represents a support obligation for that month has been received through the CSP process, the eligible family is entitled to a disregarded child support (DCS) payment. The amount of DCS payment shall be the total amount of current child support collection received on behalf of the entire eligible family, not to exceed \$50.00 (see N.J.A.C. 10:82-1.2(d)). Under the final rules which implement section 2640 of the Deficit Reduction Act of 1984, the date of the child support payment collection is the date a payment is received by the IV-D agency or other legal entity authorized to make the collection. This rule applies solely to collections of current child support and not to collections to be applied against any arrearage balances. Current AFDC eligibility is not a prerequisite for DCS payments based on a previous month's collection.

R.1984 d.463, eff. September 28, 1984 (operative October 1, 1984).

See: 16 N.J.R. 2837(a).

New rule filed as emergency rule.

Readopted, R.1984 d.568, eff. November 28, 1984.

See: 16 N.J.R. 2837(a), 16 N.J.R. 3442(a).

Previously filed as emergency rule R.1984 d.463.

Amended by R.1987 d.351, effective August 17, 1987.

See: 19 N.J.R. 501(a), 19 N.J.R. 1560(a).

Added text "which represents a support obligation for that month".

Amended by R.1989 d.497, effective September 18, 1989.

See: 21 N.J.R. 1811(a), 21 N.J.R. 3014(a).

Child support payment date is date received.

Case Notes

Challenge to regulation in conflict with federal regulations based upon supremacy clause dismissed due to lack of federal jurisdiction; Social Security Act does not provide for equal rights of citizens so as to confer federal jurisdiction under 42 U.S.C. 1343. Gonzalez v. Young, 560 F.2d 160 (3rd Cir.1977), affirmed 99 S.Ct. 1905, 441 U.S. 600, 60 L.Ed.2d 508, on remand 599 F.2d 111.