

CHAPTER 90

WORK FIRST NEW JERSEY PROGRAM

Authority

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

Source and Effective Date

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

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 90, Work First New Jersey Program, expires on July 16, 2014. See: 43 N.J.R. 1203(a).

Chapter Historical Note

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 Chapter 90, The Handbook for Home Services Program, was repealed by R.1980 d.208, effective May 9, 1980.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

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

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

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

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

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

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

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

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 As a part of R.2003 d.226, Subchapter 18, Essex/Atlantic Substance Abuse Research Demonstration, was repealed and Subchapter 18, Substance Abuse, and Subchapter 20, The Family Violence Option Initiative, were adopted as new rules, effective June 16, 2003.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

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

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. GENERAL PROVISIONS

- 10:90-1.1 Purpose, philosophy and scope of the WFNJ program
- 10:90-1.2 Opportunity and decision to apply
- 10:90-1.3 Immediate need
- 10:90-1.4 Notice and information to client
- 10:90-1.5 Prompt disposition by the county or municipal agency
- 10:90-1.6 Primary source of information

- 10:90-1.7 Nondiscrimination
- 10:90-1.8 Adherence to law and regulations
- 10:90-1.9 No duplication of assistance
- 10:90-1.10 Assistance to non-English speaking applicants
- 10:90-1.11 Release of information by county or municipal agency
- 10:90-1.12 Refusal to apply for eligible benefits
- 10:90-1.13 Change in circumstances
- 10:90-1.14 Issuance of summons or subpoena
- 10:90-1.15 Voluntary quit
- 10:90-1.16 Assignment or transfer of property

SUBCHAPTER 2. NON-FINANCIAL ELIGIBILITY REQUIREMENTS

- 10:90-2.1 General provisions
- 10:90-2.2 WFNJ TANF/GA eligibility requirements
- 10:90-2.3 Time limits on eligibility for WFNJ TANF/GA benefits
- 10:90-2.4 Exemptions from the 60-cumulative-month time limit
- 10:90-2.5 Extensions to the 60-cumulative-month time limit
- 10:90-2.6 Family violence
- 10:90-2.7 Composition of the WFNJ/TANF and WFNJ/GA eligible assistance unit
- 10:90-2.8 Individuals ineligible for WFNJ TANF/GA
- 10:90-2.9 Definition of employable/unemployable persons in WFNJ/GA
- 10:90-2.10 WFNJ TANF/GA citizenship/eligibility requirements
- 10:90-2.11 WFNJ TANF/GA residency requirements
- 10:90-2.12 County/municipal residence for identification
- 10:90-2.13 Temporary absence from the State (WFNJ TANF/GA)
- 10:90-2.14 Responsibility of a parent to report temporary absence of a child from the home
- 10:90-2.15 Child, parent or WFNJ/GA individual in an institution
- 10:90-2.16 Absence for reasons other than institutionalization
- 10:90-2.17 Provisions for minor parents
- 10:90-2.18 Family cap provision for WFNJ/TANF
- 10:90-2.19 Refusal to cooperate with Quality Assurance reviews
- 10:90-2.20 The Supportive Assistance for Individuals and Families (SAIF) Program

SUBCHAPTER 3. FINANCIAL ELIGIBILITY—INCOME, RESOURCES, BENEFITS

- 10:90-3.1 General financial eligibility provisions
- 10:90-3.2 Determining initial financial eligibility for WFNJ/TANF assistance units with dependent children
- 10:90-3.3 WFNJ/TANF-initial allowable maximum income and maximum benefit payment levels (Schedules I and II)
- 10:90-3.4 Determining initial financial eligibility for employable WFNJ/GA assistance units
- 10:90-3.5 WFNJ/GA employable, initial allowable maximum income and maximum benefit payment levels (Schedules III and IV)
- 10:90-3.6 Eligibility/maximum benefit payment levels for WFNJ/GA unemployable single adults and couples without dependent children (Schedule V)
- 10:90-3.7 Computing prorated cash assistance benefits for WFNJ TANF/GA recipients
- 10:90-3.8 Computing the WFNJ TANF/GA monthly cash benefit using disregards for earned and unearned income
- 10:90-3.9 Income—WFNJ TANF/GA
- 10:90-3.10 Resources—WFNJ TANF/GA
- 10:90-3.11 Determining the income of WFNJ TANF/GA assistance units
- 10:90-3.12 Treatment of income and resources from eligible and noneligible individuals in the WFNJ TANF/GA household, as appropriate
- 10:90-3.13 Treatment of income for needy stepparents who are married to a WFNJ recipient parent
- 10:90-3.14 Treatment of income for non-needy stepparents who are married to a natural or adoptive WFNJ recipient parent

- 10:90-3.15 Eligibility of sponsored aliens and deeming of sponsor's income and resources to a sponsored alien for eligible aliens who entered the United States after August 22, 1996
- 10:90-3.16 Deeming income of parents of minor parents
- 10:90-3.17 WFNJ/GA special payment provisions for other living arrangements
- 10:90-3.18 Treatment of lump sum income WFNJ TANF/GA
- 10:90-3.19 Exempt income
- 10:90-3.20 Exempt resources
- 10:90-3.21 Overpayments and underpayments
- 10:90-3.22 WFNJ TANF/GA case redetermination process
- 10:90-3.23 Payees in WFNJ

SUBCHAPTER 4. WFNJ WORK REQUIREMENTS

- 10:90-4.1 General work requirement provisions
- 10:90-4.2 Work activity participation
- 10:90-4.3 Description of work activities
- 10:90-4.4 (Reserved)
- 10:90-4.5 Conditions under which CWEP and AWEP shall be regarded as employment
- 10:90-4.6 Work activity placement parameters
- 10:90-4.7 The "Individual Responsibility Plan (IRP) Development Tool and Employability Profile" (IDT) (assessment)
- 10:90-4.8 Individual responsibility plan (IRP)
- 10:90-4.9 WFNJ comprehensive social assessment (CSA)
- 10:90-4.10 Deferrals from the work requirement
- 10:90-4.11 Good cause
- 10:90-4.12 (Reserved)
- 10:90-4.13 Sanctions
- 10:90-4.14 Voluntary quit (recipients)
- 10:90-4.15 Removal/lifting and rescission of sanctions
- 10:90-4.16 Sanction accruals
- 10:90-4.17 Effective date of sanctions
- 10:90-4.18 Intent to comply
- 10:90-4.19 Appeals
- 10:90-4.20 Injury compensation for CWEP and AWEP participants
- 10:90-4.21 Failure to comply with work requirements for individuals in post 60-month extension or exemption status

SUBCHAPTER 5. SUPPORTIVE SERVICES

- 10:90-5.1 Introduction
- 10:90-5.2 Child care services
- 10:90-5.3 Child care for special circumstances
- 10:90-5.4 Transportation services
- 10:90-5.5 Work expense allowance
- 10:90-5.6 Medical support services
- 10:90-5.7 Retroactive Medicaid
- 10:90-5.8 Medicaid Special
- 10:90-5.9 Medicaid extension (employment-related)
- 10:90-5.10 Medicaid extension (child support-related)
- 10:90-5.11 Supplemental Work Support Program
- 10:90-5.12 Career Advancement Voucher Program
- 10:90-5.13 Housing Subsidy Program
- 10:90-5.14 Supplemental Living Support (SLS) Program
- 10:90-5.15 Mental Health Initiative
- 10:90-5.16 TANF Initiative for Parents (TIP) Program

SUBCHAPTER 6. EMERGENCY ASSISTANCE

- 10:90-6.1 Availability of emergency assistance
- 10:90-6.2 Persons eligible for emergency assistance
- 10:90-6.3 Kinds of emergency assistance authorized
- 10:90-6.4 Time limitations
- 10:90-6.5 Recipient contribution
- 10:90-6.6 Recipient/agency responsibilities
- 10:90-6.7 Payment for hotel or motel placements
- 10:90-6.8 Intercountry/municipality transfer of EA cases
- 10:90-6.9 Supportive Housing Assistance Program (SHAP) pilot project
- 10:90-6.10 (Reserved)

SUBCHAPTER 7. ADDITIONAL AGENCY RESPONSIBILITIES

- 10:90-7.1 Establishment and maintenance of case records
- 10:90-7.2 Contents of the case record
- 10:90-7.3 Maintenance, custody, movement and transfer of case records
- 10:90-7.4 Issuance of photo identification cards
- 10:90-7.5 Lost or stolen benefits
- 10:90-7.6 Reporting of child abuse and neglect
- 10:90-7.7 Confidential nature of information
- 10:90-7.8 Settlement of suits and claims

SUBCHAPTER 8. SPECIAL PROVISIONS FOR PAYMENT OF FUNERAL AND BURIAL EXPENSES

- 10:90-8.1 Payment of funeral and burial expenses
- 10:90-8.2 Persons who may be eligible
- 10:90-8.3 Funeral and burial contracts
- 10:90-8.4 Definitions and conditions
- 10:90-8.5 Authorization of payment
- 10:90-8.6 Time of payment
- 10:90-8.7 Irregularities
- 10:90-8.8 Requirements pertaining to SSI or Medicaid Only recipients

SUBCHAPTER 9. NOTICES AND HEARINGS IN WFNJ

- 10:90-9.1 Notice to applicant/recipient
- 10:90-9.2 Definitions related to hearings
- 10:90-9.3 Right to a fair hearing
- 10:90-9.4 Rules applicable to WFNJ/GA applicants/recipients
- 10:90-9.5 Responsibilities of the county/municipal agency in processing hearing requests
- 10:90-9.6 Responsibilities of the Division of Family Development
- 10:90-9.7 Responsibilities of the Office of Administrative Law upon transmittal of a contested case from DFD
- 10:90-9.8 Administrative hearings and administrative reviews
- 10:90-9.9 Complaints and adjustment procedures
- 10:90-9.10 Time limitations on entitlement to fair hearings (county and municipal)
- 10:90-9.11 Access to case file and documents prior to hearing
- 10:90-9.12 Representation at hearings
- 10:90-9.13 Disposition of hearing request through withdrawal, abandonment or settlement
- 10:90-9.14 Adjournments
- 10:90-9.15 Hearings involving medical issues
- 10:90-9.16 Decision by Director, Division of Family Development
- 10:90-9.17 Emergency fair hearings

SUBCHAPTER 10. REFUGEE RESETTLEMENT PROGRAM

- 10:90-10.1 Purpose and funding
- 10:90-10.2 Identifying refugees
- 10:90-10.3 INS statuses for RRP
- 10:90-10.4 Resettlement
- 10:90-10.5 Termination of RRP: continued eligibility for assistance
- 10:90-10.6 Eligibility
- 10:90-10.7 Medical assistance and medical expense spend-down
- 10:90-10.8 Social services
- 10:90-10.9 Fair hearings
- 10:90-10.10 Case records

SUBCHAPTER 11. INTENTIONAL PROGRAM VIOLATION

- 10:90-11.1 Definition of intentional program violation (IPV)
- 10:90-11.2 Methods of determining IPV
- 10:90-11.3 Referral for administrative disqualification hearing
- 10:90-11.4 Waiver of right to administrative disqualification hearing
- 10:90-11.5 Administrative disqualification hearing procedures

v. If an individual subject to six-month reporting leaves an assistance unit and moves into another assistance unit, or becomes a separate assistance unit or reports the addition of a new member already participating in six-month reporting on another case, the CWA shall take appropriate action to remove the person from the losing case, add the person to the gaining case, and ensure there is no duplicate participation.

(1) If the individual leaving the assistance unit is the only individual with earned income, the county/municipal agency shall convert the case back to the normal reporting requirements at the time of the next case redetermination.

(2) When the individual with earnings joins another assistance unit without income, the county/municipal agency shall convert the case to six-month reporting requirements at the time of the next case redetermination.

vi. County/municipal agencies are not precluded from conducting investigations of suspected fraud cases.

(f) Under certain circumstances, including, but not limited to, the following, a supplemental payment to the last regular benefit payment may be issued during the current payment period.

1. An assistance payment was incorrectly computed or not issued due to administrative error. Such supplemental payment(s) shall be considered as corrections to underpayments;
2. A change in circumstances occurred; or
3. A new member was added to the eligible unit.

(g) Any supplemental payment to an eligible assistance unit shall be calculated using the proration chart at N.J.A.C. 10:90-3.7 based on the date of the change if all other eligibility factors are met.

Amended by R.1998 d.42, effective January 20, 1998.
 See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).
 In (c), substituted a reference to WFNJ/FS cases for a reference to PA/FS cases; and added (d)1i and ii.
 Amended by R.2003 d.226, effective June 16, 2003.
 See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).
 Rewrote (d) and (e).

10:90-3.12 Treatment of income and resources from eligible and noneligible individuals in the WFNJ TANF/GA household, as appropriate

(a) Income of the spouse is considered available for the other spouse and income of a parent (natural or adoptive) 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.

(b) When an individual is not included in the eligible assistance unit because of a sanction for failure or refusal to comply with a WFNJ program requirement or is disqualified for an intentional program violation and, such individual has earned or unearned income of his or her own, that income shall be considered available to the remaining members of the eligible unit.

1. For earned income, the gross amount to be considered available to the eligible assistance unit shall be determined without application of earned income disregards provided for at N.J.A.C. 10:90-3.8.

(c) The resources of eligible and noneligible individuals in the WFNJ TANF/GA household specified in (a) and (b) above shall be determined in accordance with the provisions of this subchapter. Resources shall be determined countable or exempt as such determination would be made as if the individual was eligible for WFNJ TANF/GA. Where such individual's resources are countable and exceed the resource limit for a specific exemption, the excess shall be counted as available to the eligible unit. For example, if the individual's liquid resources exceed the \$2,000 resource exemption, the excess shall be counted available to the eligible unit.

(d) If the noneligible individual is an illegal alien parent or noneligible alien parent and has citizen or eligible alien children, his or her income shall be considered available to the eligible assistance unit and shall be calculated in accordance with the parent to minor parent deeming formula at N.J.A.C. 10:90-3.16 at initial determination and redetermination of eligibility.

(e) A parent person other than a natural or adoptive parent or stepparent, who is a care-giver to a dependent child(ren) who is that care-giver's legal blood relative, shall be evaluated to determine whether that person is eligible for benefits if that person's income does not exceed 150 percent of the Federal Poverty Income Guidelines, as published in the Federal Register and subsequently as a public notice in the New Jersey Register.

(f) For WFNJ/GA single adults and couples without dependent children, retroactive SSI payments are subject to reimbursement in accordance WFNJ/GA fiscal provisions at N.J.A.C. 10:90-14.

Administrative correction.
 See: 29 N.J.R. 3729(a).
 Amended by R.1998 d.42, effective January 20, 1998.
 See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).
 Added (c); recodified former (c) through (e) as (d) through (f).
 Amended by R.2011 d.078, effective March 7, 2011.
 See: 42 N.J.R. 2561(b), 43 N.J.R. 630(a).
 In (d), substituted "minor parent" for "parent-minor".

10:90-3.13 Treatment of income for needy stepparents who are married to a WFNJ recipient parent

(a) When a needy stepparent is married to a natural or adoptive WFNJ recipient parent and is not the parent of any

of the WFNJ children, the stepparent shall be included as a member of the eligible assistance unit, with all needs recognized and his or her income considered in determining the adjusted allowance and the amount of the cash assistance benefit in accordance with all regulations in this chapter.

1. If the stepparent's income causes the eligible assistance unit to become ineligible, then the stepparent is considered non-needy and the rules at N.J.A.C. 10:90-3.14 shall be applied.

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

10:90-3.14 Treatment of income for non-needy stepparents who are married to a natural or adoptive WFNJ recipient parent

(a) When a non-needy stepparent is married to a natural or adoptive WFNJ recipient parent and is not the parent of any of the WFNJ children, the non-needy stepparent, the stepparent's natural or adoptive children and the WFNJ recipient parent shall be excluded from the eligible assistance unit; therefore, the eligible assistance unit shall consist of only the WFNJ children. Eligibility for the WFNJ children shall be established provided that the gross income of the assistance unit does not exceed the maximum income limits for the applicable household size as referenced in (a)1 below, and the countable income of the eligible children does not exceed the limits referenced in (c) below.

1. Household maximum income limits for non-needy stepparents marrying WFNJ recipient parents shall be based on 150 percent of the Federal Poverty Income Guidelines as published each year in the Federal Register and subsequently as a public notice in the New Jersey Register.

(b) WFNJ eligibility shall not exist for any month if the total income exceeds 150 percent of the Federal Poverty Income Guidelines 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 WFNJ or SSI benefits.

1. The income of the assistance unit 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 (b)1 above shall be compared to 150 percent of the Federal Poverty Income Guidelines. Provided the household's gross income is less than the amount for the appropriate household size, initial WFNJ eligibility shall be established for the children of the natural or adoptive parent (excluding children who are recipients of SSI bene-

fits). If the household's gross income equals or exceeds the applicable poverty level guideline amount, all members of the household shall be ineligible for WFNJ benefits.

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

ii. The grant for eligible children shall be:

(1) The appropriate maximum allowance payment in Schedule II at N.J.A.C. 10:90-3.3, less any income available to the eligible assistance unit, including the countable income of the natural or adoptive parent as determined in (c) below.

(2) In no event shall the WFNJ payment for the eligible children be reduced below \$10.00 until such time as gross income of the assistance unit exceeds the applicable Federal Poverty Income Guideline for the appropriate household size, and the countable income of the eligible children does not exceed the maximum benefit payment amount in Schedule II at N.J.A.C. 10:90-3.3 for the appropriate eligible unit size.

(c) Countable income to the WFNJ eligible children 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 WFNJ parent shall be reduced by the appropriate disregard as specified at N.J.A.C. 10:90-3.8, and the result added to any unearned income received by that parent. The result of this calculation is further reduced by the payment benefit level amount for an eligible unit of one in Schedule II at N.J.A.C. 10:90-3.3.

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

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

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

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

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

Amended by R.2007 d.163, effective May 21, 2007.
See: 39 N.J.R. 8(a), 39 N.J.R. 2113(a).

In (c)2, substituted "appropriate" for "50 percent".

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

(a) The income and resources of an alien's sponsor shall be deemed to be unearned income and resources of an alien applying for WFNJ for a period of three years following the alien's entry into the United States. For purposes of deeming, a sponsor is an individual who executed an affidavit of support, Form I-134, or similar agreement (except as noted in (j) below) on behalf of an alien (who is not the child of the sponsor or the sponsor's spouse) as a condition of the alien's entry into the United States.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(g) Income and resources which are deemed to a sponsored alien shall not be considered in determining the need of other 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.

(h) Any individual sponsor of an alien, and the alien, shall be jointly and severally liable for any overpayment of public

assistance made to the alien during the three years after the alien's entry into the United States that was caused by the sponsor's failure to provide correct information under the provisions of this section, except as provided in (h)1 below.

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

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

- i. Any State administered or supervised program established by the Social Security Act; or
- ii. Any cash benefit program administered by the Social Security Administration and established by the Social Security Act.

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

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

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

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

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

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

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

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

(j) The enforceable "Affidavit of Support", Form I-864, is required for family based immigrants, who apply for an immigrant visa or adjustment of status on or after December 19, 1997. The I-864 form is also required in employment-based cases where a relative of the immigrant filed the employment based immigrant petition or has a significant ownership interest in the entity that filed the petition.

1. The enforceable affidavit is a contract between the sponsor and the U.S. Government that requires the sponsor to maintain the immigrant at 125 percent of the Federal Poverty Level until the sponsor dies, the immigrant becomes a citizen, or the immigrant obtains credit for 40 qualifying quarters of work and becomes an otherwise eligible alien.

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

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

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

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

In (a), inserted reference to Form I-134 and "(except as noted in (j) below)"; added (j).

Amended by R.2011 d.078, effective March 7, 2011.

See: 42 N.J.R. 2561(b), 43 N.J.R. 630(a).

In (b)1, deleted "a" preceding "public or private".

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

(a) A minor parent is an individual under the age of 18 who is himself or herself a parent of a dependent child.

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

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

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

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

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

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

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

Amended by R.2007 d.163, effective May 21, 2007.

See: 39 N.J.R. 8(a), 39 N.J.R. 2113(a).

In (b)1, substituted "appropriate" for "50 percent".

Amended by R.2011 d.078, effective March 7, 2011.

See: 42 N.J.R. 2561(b), 43 N.J.R. 630(a).

Section was "Deeming income of parents of adolescent parents". In (a), substituted "A minor" for "An adolescent", and deleted "and" following "18"; and in the introductory paragraph of (b), substituted "a minor" for "an adolescent", and substituted "minor" for "adolescent" twice.

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

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