

(d) The parents of children and the spouse of a child are legally responsible relatives to children applying for or eligible for benefits under the provisions of this chapter. When a legally responsible relative resides in the same household, his or her income is considered in the determination of eligibility and no further action is required. When a legally responsible relative does not reside in the same household, the eligibility determination agency shall pursue support from that relative in accordance with the provisions of N.J.A.C. 10:69-5.9.

1. Except when the legally responsible relative resides in the same household, income of the relative shall be counted only to the extent that the income is actually made available to the household unit.

(e) No portion of a cash reward provided to any individual by the Division for providing information about fraud and/or abuse in any program administered in whole or in part by the Division shall be included in the computation of income for financial eligibility purposes.

Amended by R.1998 d.154, effective February 27, 1998 (operative March 1, 1998; to expire August 31, 1998).

See: 30 N.J.R. 1060(a).

In (a), added "For purposes of Plan A eligibility," at the beginning. Adopted concurrent proposal, R.1998 d.487, effective August 28, 1998. See: 30 N.J.R. 1060(a), 30 N.J.R. 3519(a).

Readopted the provisions of R.1998 d.154 without change.

Amended by R.2002 d.124, effective April 15, 2002.

See: 33 N.J.R. 4188(a), 34 N.J.R. 1546(a).

Added (e).

Amended by R.2004 d.42, effective January 20, 2004.

See: 35 N.J.R. 3802(a), 36 N.J.R. 572(b).

In (a), substituted "the rules" for "regulations" preceding "applicable" in the introductory paragraph, added 5 and amended the N.J.A.C. references throughout; in (b), inserted ", in accordance with N.J.A.C. 10:79-4.1" following "household" in the first sentence of the introductory paragraph and amended the N.J.A.C. reference in 2; in (c) rewrote the first sentence and added the N.J.A.C. reference in the second sentence; in (d), amended the N.J.A.C. reference in the introductory paragraph.

#### 10:79-4.4 Countable income—Plans B, C and D

(a) For purposes of Plan B, C or D eligibility, gross income for the applicant shall include the gross income of members of the household unit as defined in N.J.A.C. 10:79-3.6.

1. Income from a legally responsible relative who does not reside with the family shall be counted only to the extent that the income is actually made available to the household unit.

2. A minor child who is in receipt of Supplemental Security Income (SSI) shall not be included in the household income.

3. Earned income of a child who is a student as defined in N.J.A.C. 10:69-10.3 shall be counted in the household income.

4. Wages paid by the U.S. Census Bureau for temporary employment related to Census 2000 activities shall not be considered household income.

(b) Income for purposes of determining eligibility for the NJ FamilyCare-Children's Program-Plans B, C or D shall be determined as follows:

1. For self-employed persons, income shall be calculated using adjusted gross income reported on the family's Federal income tax form(s) from the prior year as the baseline and adding back in reported depreciation, carry-over loss, and net operating loss amounts that apply to the business in which the family is currently engaged. Applicants shall report the most recent financial situation of the family if it has changed from the period of time covered by the Federal income tax form. The report may be in the form of a percentage increase or decrease.

2. The best estimate of income shall be based on an average of the household unit's income. Adjustments shall be made to the estimated income to reflect changes in income that either have occurred or which are reasonably anticipated to occur which would affect the household unit's income during a period of eligibility. To establish the best estimate, the full one-month period immediately preceding the date of application or redetermination shall be used.

i. Income received weekly shall be multiplied by 4.333 to determine the monthly amount; biweekly income shall be multiplied by 2.167; variable amounts should be averaged for the appropriate frequency (that is, weekly paychecks should have a weekly average calculated: biweekly amounts should be averaged to determine a biweekly average, etc.). That amount should then be multiplied by the appropriate formula to determine monthly gross income. Other income should also have the same methodology applied to determine monthly income.

3. For unemployed persons eligible for a governmental income program, income shall be determined as it exists at time of application, with notification of changes to be the responsibility of the applicant. If income evaluated in this fashion renders an applicant ineligible, documented cessation of the income source after the date of application shall be considered.

4. For other individual circumstances, income, including unearned income, shall be calculated based on a combination and/or variation of (b)1, 2, and/or 3 above, as appropriate.

(c) For purposes of Plan D eligibility, the amount of gross income greater than 200 percent and not in excess of 350 percent of the Federal poverty level shall be subject to disregard.

(d) No portion of a cash reward provided to any individual by the Division for providing information about fraud and/or abuse in any program administered in whole or in part by the Division shall be included in the computation of income for financial eligibility purposes.

(e) Nonrecurring lump sum income received by a household unit of a child shall be added to any other income received by the household unit in that month. The total shall be divided by the income eligibility limit applicable to the household. The result will be the number of months the eligible members of the household unit shall be ineligible to receive NJ FamilyCare-Children's Program under the provisions of this chapter. Any remaining income from this calculation is treated as if it were unearned income in the first month following the period of ineligibility.

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

2. Once established, the period of ineligibility may be reduced only in accordance with the AFDC provisions for shortening a period of ineligibility as found at N.J.A.C. 10:69-10.23(a)5. The basis for a determination to shorten the period of ineligibility shall be fully documented in the case record.

New Rule, R.1998 d.154, effective February 27, 1998 (operative March 1, 1998; to expire August 31, 1998).

See: 30 N.J.R. 1060(a).

Former N.J.A.C. 10:79-4.4, Resource eligibility, recodified to N.J.A.C. 10:79-4.5.

Adopted concurrent proposal, R.1998 d.487, effective August 28, 1998. See: 30 N.J.R. 1060(a), 30 N.J.R. 3519(a).

Readopted the provisions of R.1998 d.154 without change.

Amended by R.1999 d.211, effective July 6, 1999 (operative August 1, 1999).

See: 31 N.J.R. 998(a), 31 N.J.R. 1806(a), 31 N.J.R. 2879(b).

In (a) and (b), inserted references to Plan D; and added (c).

Amended by R.2002 d.124, effective April 15, 2002.

See: 33 N.J.R. 4188(a), 34 N.J.R. 1546(a).

Added (d).

Amended by R.2004 d.42, effective January 20, 2004.

See: 35 N.J.R. 3802(a), 36 N.J.R. 572(b).

In (a), rewrote 3 and added 4; in (b), rewrote 2; added (e).

#### 10:79-4.5 Resource eligibility

Children seeking NJ FamilyCare-Children's Program benefits under the provisions of this chapter are eligible without regard to the value of the household unit's resources. The eligibility determination agency shall inquire about the household unit's resources only in order to establish income that may result from the household unit's resources.

Recodified from N.J.A.C. 10:79-4.4 by R.1998 d.154, effective February 27, 1998 (operative March 1, 1998; to expire August 31, 1998). See: 30 N.J.R. 1060(a).

Adopted concurrent proposal, R.1998 d.487, effective August 28, 1998. See: 30 N.J.R. 1060(a), 30 N.J.R. 3519(a).

Readopted the provisions of R.1998 d.154 without change.

Amended by R.2004 d.42, effective January 20, 2004.

See: 35 N.J.R. 3802(a), 36 N.J.R. 572(b).

## SUBCHAPTER 5. ADMINISTRATION

### 10:79-5.1 Eligibility determination agencies—Plans B, C and D

Financial eligibility for the NJ FamilyCare-Children's Program is administered by the eligibility determination agencies under the supervision of the Division of Medical Assistance and Health Services. Financial eligibility for the NJ FamilyCare-Children's Program—Plans B, C and D is administered by the Statewide eligibility determination agency under the supervision of the Division of Medical Assistance and Health Services.

Amended by R.1998 d.154, effective February 27, 1998 (operative March 1, 1998; to expire August 31, 1998).

See: 30 N.J.R. 1060(a).

Added a second sentence.

Adopted concurrent proposal, R.1998 d.487, effective August 28, 1998.

See: 30 N.J.R. 1060(a), 30 N.J.R. 3519(a).

Readopted the provisions of R.1998 d.154 without change.

Amended by R.1999 d.211, effective July 6, 1999 (operative August 1, 1999).

See: 31 N.J.R. 998(a), 31 N.J.R. 1806(a), 31 N.J.R. 2879(b).

Inserted a reference to Plan D.

Amended by R.2004 d.42, effective January 20, 2004.

See: 35 N.J.R. 3802(a), 36 N.J.R. 572(b).

### 10:79-5.2 Administration principles—availability of program rules

(a) The director of the eligibility determination agency shall assign copies of this chapter to administrative staff, all staff responsible for the determination of NJ FamilyCare-Children's Program eligibility for children, and to social service staff as appropriate and shall ensure that each staff member is thoroughly familiar with its requirements in order to apply the policy and procedures consistently.

(b) The Division of Medical Assistance and Health Services will issue revisions to this chapter as they are promulgated in accordance with New Jersey Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

1. At least one administrative copy of all obsolete pages of this chapter must be maintained by the eligibility determination agency.

(c) This chapter is a public document. All copies in use must be updated accurately as revisions are issued. The chapter is available as follows:

1. Copies are available in the State offices of the Division of Medical Assistance and Health Services and in each eligibility determination agency for examination and review during regular office hours.

2. Specific policy material necessary for an applicant or beneficiary or his or her representative to determine whether a fair hearing is to be requested or to prepare for a fair hearing shall be provided to such persons without charge.