

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 earning 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.

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 expen-

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.

Absent father's monthly contribution to household rent was unearned income in calculating AFDC benefits. *Hudson County v. R.M.*, 95 N.J.A.R.2d (DEA) 1.

## 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.