

i. See N.J.A.C. 10:82-2.3 for determination of the initial grant.

3. The CWA must validate all applicable eligibility requirements within two months following the month in which assistance is initially granted. This shall be accomplished by reliance upon documentary (factual recorded information) or nondocumentary (factual oral or written statements by reliable individuals possessing personal knowledge) sources of evidence. Failure of CWA to complete validation which is not due to lack of client cooperation shall not jeopardize the client's continued assistance.

4. Applicants are usually able to help select the most likely sources for corroboration of essential eligibility information. If they are not willing to have the necessary inquiries made or to secure the required information from such sources themselves, it shall be explained that the CWA will be unable to grant assistance. This choice and the consent form printed on the application which allows others to be contacted will be explicitly explained (see N.J.A.C. 10:81-1.2 and 1.5).

As amended, R.1980 d.77, effective April 1, 1980.

See: 11 N.J.R. 554(a), 12 N.J.R. 126(b).

Recodified (a), (b), and (c) as (a)2, (a)4 and (a)3. Added new (a), (a)1 and (a)2i.

Amended first clause and cross references in (a)2. County Welfare Board changed to CWA.

As amended, R.1983 d.319, effective July 20, 1983.

See: 15 N.J.R. 933(a), 15 N.J.R. 1375(c).

Deleted citation to 2.23.

#### Case Notes

Initial eligibility for AFDC grant may be determined on the basis of 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), affirmed 175 N.J.Super. 158 (App.Div.1980).

### 10:81-3.4 Sources of evidence regarding eligibility

(a) The client's statement regarding his/her eligibility are evidence. For purposes of public assistance, the client's statement must be consistent and certain facts must be documented. The applicant will be informed that the county welfare board needs to document the facts regarding certain eligibility criteria and that this process will include contacting collateral sources as necessary:

1. Public records are preferred evidence and investigation of these sources shall be exhausted before other sources are used.

2. Sources of collateral evidence to establish eligibility include but are not limited to the following:

i. Birth, death and marriage certificates, church records, immigration and naturalization papers, census records, school records, military service record, court records, employment records, records of public or private welfare agencies, voting records, medical records, personal records and affidavits from knowledgeable persons.

(b) Only evidence to corroborate facts essential to eligibility shall be sought. In determining the relative validity of sources of evidence in subsection (a) of this section, the agency should bear in mind the type and source of document.

(c) Affidavits shall be used only when other sources have failed or have produced inconclusive data. Documentation obtained in this manner shall be taken under oath from a person who has factual knowledge of the relevant circumstances. The affidavit shall show the circumstances under which this person has known the applicant as well as the factual basis of his/her statements relating to the applicable eligibility requirements.

(d) While it is usually desirable to obtain evidence in written form, personal inspection of records by the agency personnel, where permission can be secured, is an acceptable practice and is often quicker and simpler. (Also see N.J.A.C. 10:81-3.6.)

(e) With respect to "enumeration at birth," the CWA shall request proof of receipt of the SSN after six months from the child's birth have lapsed or at time of the recipient's next redetermination, whichever occurs first. If an SSN has not been assigned to the newborn at that time, then the CWA shall complete the SS-5 form for such newborn.

Amended by R.1994 d.233, effective May 16, 1994.

See: 26 N.J.R. 324(a), 26 N.J.R. 2099(a).

#### Case Notes

Public records as evidence of eligibility. Atty.Gen.F.O.1977, No. 17.

Information derived from State income tax forms cannot, without the consent of the applicant, be compared with information maintained by the division of public welfare and/or county welfare agencies to insure that persons receiving aid to families with dependent children under s 44:10-1 et seq. have reported the correct amount of their income to the division of public welfare. Atty.Gen.F.O.1977, No. 17.

Blood relationship not established by grandmother. V.S. v. Essex County Division of Welfare, 92 N.J.A.R.2d (DEA) 13.

Public records and documents are preferred evidence and should be exhausted before other sources are used; burden of proof of parentage lies with aid applicant by a preponderance of believable evidence. A.H. v. Bergen Cty. Welfare Bd., 4 N.J.A.R. 52 (1981).

### 10:81-3.5 Verification of income and resources

(a) All recipients of public assistance must meet the criteria for financial need. These are delineated in the assistance standards handbook.

(b) Earned and unearned income verification is as follows:

1. The IM worker will verify, either through examination of paystubs or with the client's employer, the amount of gross income.

2. All unearned income shall be verified by examination of benefit check or by contact with the company or agency granting such benefit. Social Security benefit

information verification may be accomplished through the Automated Benefit Information Exchange (ABIE)/Beneficiary and Earnings Data Exchange (BENDEX) and/or Third Party Query (TPQY) (see N.J.A.C. 10:81-8.2 concerning TPQY).

3. Previous sources of support shall be explored with the applicant.

4. All resources shall be evaluated and, where appropriate, a plan for their liquidation shall be developed and carried out (see N.J.A.C. 10:82-3).

i. Legally responsible relatives must be contacted for evaluation of their capacity to support (see N.J.A.C. 10:81-3.35 and 3.36).

As amended, R.1977 d.452, effective December 1, 1977.

See: 9 N.J.R. 367(c), 10 N.J.R. 16(b).

As amended, R.1979 d.444, effective November 13, 1979.

See: 11 N.J.R. 505(d), 11 N.J.R. 626(a).

As amended on an emergency basis, R.1981 d.397, effective September 30, 1981, (oper. October 1, 1981), expires November 30, 1981.

See: 13 N.J.R. 759(a).

Recodified, R.1981 d.518, effective December 31, 1981.

See: 13 N.J.R. 759(a), 14 N.J.R. 102(c).

(b)1: "earned" added; "In AFDC- . . . 2-10)" deleted.

Administrative correction to (b).

See: 21 N.J.R. 1430(c).

Text regarding RSDI benefits deleted.

Amended by R.1989 d.496, effective September 18, 1989.

See: 21 N.J.R. 1795(a), 21 N.J.R. 3006(a).

Provision for validation through ABIE, BENDEX, or TPQ added.

#### 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 rather than date of injury judgment; welfare board not chargeable with pro rate share of injury litigation counsel fee. In re: Guardianship of Jones, 170 N.J. Super. 478, 406 A.2d 1331 (App.Div.1979), certiorari denied 82 N.J. 290, 412 A.2d 797 (1980).

#### 10:81-3.6 Recording of documentation

All information, written or oral, including sources and methods of documentation, shall be recorded on Form PA-1J, Application and Affidavit for Public Assistance and included in the case record. See N.J.A.C. 10:81-7.9 for Provisions concerning documentation procedure.

As amended, R.1979 d.428, effective October 18, 1979.

See: 11 N.J.R. 344(a), 11 N.J.R. 560(e).

Amended by R.1989 d.496, effective September 18, 1989.

See: 21 N.J.R. 1795(a), 21 N.J.R. 3006(a).

Stylistic changes.

#### 10:81-3.7 Issuance of summons or subpoena

(a) When all other means of determining facts and circumstances concerning an application for assistance have been exhausted, the county welfare board director may:

1. Issue a subpoena to a third party in the State who has necessary and relevant information and require that pertinent records and other documents be produced for examination;

2. Administer oaths for the purpose of such examinations.

(b) Action for contempt of court may be initiated when such person fails to obey a subpoena issued by the county welfare board director or to testify to facts and circumstances pertinent to the application for assistance.

(c) The refusal of such person to cooperate will not disqualify applicant.

#### 10:81-3.8 Applicant in 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 or is excluded from the eligible unit in accordance with (c) below.

1. The eligible unit for AFDC-C or -F shall include any blood-related or adoptive brothers and sisters living in the same household and who are otherwise eligible for AFDC-C or -F. This requirement does not apply to stepbrothers or stepsisters.

(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 two-person family, the individual not receiving SSI benefits shall comprise an eligible unit of one; this applies to a parent as well as to a child; thus the only eligible individual may be the parent or parent-person, and the appropriate payment will be for that individual only.

2. There may be cases in which the recipient count will be one or two adults and no children depending on whether one or both parents are present in the eligible unit.

(c) The provisions in this subsection 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. 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)3 below applies. This provision is applicable to parents 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 time frame 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 past-AFDC benefit periods for FDP or REACH/JOBS participation.

1. For families in receipt of assistance on October 1, 1992, a child born to the AFDC parent 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 (c) above. Such child shall, however, be included in the eligible unit for initial eligibility purposes as well as for the determination of all other categorically related benefits.

2. For families which apply for AFDC benefits on or after October 1, 1992, the 10-month timeframe specified in (c) 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 the 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. Beginning October 1, 1992, the 10-month timeframe addressed in (c) above shall be binding upon any family for any subsequent reapplications or reopenings of the case and any child(ren) born into that family shall not be included in the eligible unit, for cash assistance purposes only, until such time as (c)4 below applies.

i. Any child included in 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 (c) 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.

4. Beginning October 1, 1992, when a 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 situations, any child(ren) previously excluded from the eligible unit in accordance with (c) above shall now be included in the eligible unit for cash assistance purposes.

i. When an AFDC-C, -F or -N family becomes ineligible for AFDC for any of the reasons listed in (c)4i(1) through (3) below, remains employed for a minimum of 90 days thereafter and subsequently reapplies for AFDC prior to expiration of the 12 consecutive month period in (c)4 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 (c) 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 (c)3 above.

(1) Earnings or increased earnings from employment, including earnings from new employment;

(2) 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

(3) Increased hours of employment.

(d) An individual who incurs a penalty of ineligibility shall not be included in the eligible unit and his/her needs shall not be taken into account in determining the family's need for assistance. (See section 14 of this subchapter regarding income of a noneligible parent.)

(e) The term child in AFDC shall be understood to refer to one or more eligible children residing in the home of the applicant parent(s).

1. Relationship of the child(ren) to the parent or parent-person applying for AFDC-C or the child(ren) to the natural or adoptive parents applying for AFDC-F or -N shall be established by use of documentary or non-documentary sources of evidence. Some examples of these types of evidence are given in section 3.4(a)2 of this subchapter.

(f) Rules concerning potential eligibility for other programs are:

1. The CWA shall explore potential eligibility for AFDC-C or -F before determining eligibility for AFDC-N.

2. When applicant family members, including a disabled or blind child, appear to be eligible for other programs (for example, Supplemental Security Income), the advantages and disadvantages of each program shall be explained to the applicant. He/she shall have the right to decide under which program(s) he/she wishes to apply. In the event an applicant parent(s) is found to be eligible for another program of assistance, such parent(s) may nevertheless apply for AFDC-C, -F or -N as appropriate, for the eligible child(ren) only.

i. In the event the parent applies for SSI, the CWA will be allowed to obtain reimbursement of AFDC-N payments made to applicants or their dependents who are subsequently determined eligible for SSI benefits. The amount subject to reimbursement will be only the individual's per capita share of the adjusted AFDC-N allowance. (See N.J.A.C. 10:81-3.46.)

As amended, R.1976 d.408, effective January 1, 1977.

See: 8 N.J.R. 467(c), 9 N.J.R. 23(c).

As amended, R.1977 d.452, effective December 1, 1977.

See: 9 N.J.R. 367(c), 10 N.J.R. 16(b).

As amended, R.1980 d.118, effective March 19, 1980.

Added (e)2i.

As amended on emergency basis R.1984 d.464, effective September 28, 1984 (operative October 1, 1984).

See: 16 N.J.R. 2833(a).

(a)j added.

Readopted, R.1984 d.569, effective November 28, 1984.

See: 16 N.J.R. 2833(a), 16 N.J.R. 3439(b).

(a)1: Added "for AFDC-C or -F".

Amended by R.1992 d.366, effective September 21, 1992.

See: 24 N.J.R. 2147(a), 24 N.J.R. 3345(a).

Elimination of entitlement to increased benefits as a result of birth of a child.

#### Case Notes

Blood relationship not established by grandmother. *V.S. v. Essex County Division of Welfare*, 92 N.J.A.R.2d (DEA) 13.

Grandmother removed as primary caretaker for her daughter's children. *Passaic County Board of Social Services v. G.B.*, 92 N.J.A.R.2d (DEA) 11.

Cited in support of holding that burden of proof of parentage to establish eligibility lies with aid applicant by preponderance of believable evidence. *A.H. v. Bergen Cty. Welfare Bd.*, 4 N.J.A.R. 52 (1981).

#### 10:81-3.9 Applicant in AFDC-C, -F and -N

(a) AFDC-C: The term applicant in AFDC-C refers to the parent(s) or parent-person(s) who makes an affirmative decision to apply for financial assistance or, when the applicant is incapacitated or alleged incompetent, someone acting responsibly for him or her (see N.J.A.C. 10:81-2.3(b)1) in order to maintain and provide for one or more dependent children of eligible age who are in his or her care or custody. It shall also include the stepparent when the natural or adoptive parent designates the stepparent as an individual whose presence in the home is essential to his or her well being and elects that such person shall be included (see N.J.A.C. 10:82-2.9). If the AFDC-C recipient parent marries a non-needy individual on or after October 1, 1992 and the provisions of N.J.A.C. 10:82-2.10 apply, the AFDC-C recipient natural or adoptive parent, the stepparent and that stepparent's own natural or adoptive child(ren) shall be excluded from the eligible unit, unless the family has been randomly assigned to a control group for purposes of evaluation.

1. When the applicant applying for AFDC-C based on continued absence of a natural or adoptive parent is himself or herself a natural or adoptive parent, he or she must apply for himself or herself and children of eligible age, unless such parent is an SSI recipient in which case he or she may apply for the eligible children only (see N.J.A.C. 10:81-3.8).

2. When the applicant in AFDC-C is a parent-person, he or she has the option of applying for himself or herself and the eligible children or only for the eligible children in his or her care and custody.

3. In all AFDC-C cases, an application must be signed by the adult member(s) or parent-minor (see section 12(a) of this subchapter) of the unit for which assistance is claimed. The designated payee may only be a person who has signed the application. (See N.J.A.C. 10:81-2.3(b) and 4.6.).

4. When the AFDC-C child(ren) lives with a parent-person(s), the application shall be executed by the parent-person who will be the designated payee.

5. Application during pregnancy (all segments): Upon presentation of documented medical evidence of pregnancy, which shall include the estimated date of conception and delivery, a pregnant woman may make application for medical assistance on behalf of her unborn child and for AFDC following the child's birth. One application form will be prepared to cover both requests.

i. A pregnant woman under age 21 who meets the criteria established in N.J.A.C. 10:81-8.23 would be eligible for prenatal care in her own right.

ii. The regulations below extend medical assistance (Medicaid Special) on behalf of the unborn child to women age 21 and over and to expectant mothers under age 21 who are not eligible in their own right for Medicaid Special (see N.J.A.C. 10:81-23(e)). Persons in either age group may make application for AFDC pending the anticipated birth of the child.

(1) The CWA will register the application immediately and determine eligibility for medical assistance until the birth of the child (see N.J.A.C. 10:81-8.23). Postnatal care for the mother is not covered unless eligibility for AFDC (and Medicaid) is established in accordance with the appropriate regulations or unless the woman is eligible for Medicaid Special in her own right.

(2) Within 30 days prior to the expected delivery date, the CWA will make a determination regarding eligibility for AFDC, including the evaluation of LRRs. If eligibility is established, money payments will begin following the birth of the child provided the client affirms that she desires assistance and intends to retain care and custody of the child. (See N.J.A.C. 10:82-2.3 regarding initial grants.)

(3) Eligibility for AFDC following the birth of the child is based on the requirements and standard for AFDC-C, -F or -N, whichever is applicable.

(4) After the birth of the child, the mother may be eligible for AFDC but decline a money payment. In such instances, mother and child are eligible for Medicaid Only.

(b) The term applicant in AFDC-F and -N refers to natural or adoptive parents, not incapacitated, both of whom shall be required to execute the formal written application unless one such parent is not available for reasons beyond the family's control. This parent shall be required to sign as promptly as he or she is available for such purpose. (See N.J.A.C. 10:82-1.5 and 2.13 relevant to companion cases.)

(c) To be eligible for AFDC-C, -F or -N, or AFDC-related Medicaid an individual shall be either a citizen of the United States or otherwise permanently residing in the United States under color of law, including any alien who is lawfully present in the United States as a result of the application of Section 207(c), Section 203(a)(7) (prior to April 1, 1980), Section 208, and Section 212(d)(5) of the Immigration and Nationality Act.

1. Each AFDC-C, -F or -N and AFDC-related Medicaid applicant shall, as a condition of eligibility, provide a written statement of citizenship or legal alien status. If the applicant(s) is not a United States citizen, he or she shall provide documentation, subject to verification, of satisfactory immigration status. When the applicant or other person for whom the application is being made is an alien, his or her legal status shall be verified through evidence provided by the applicant with the United States Immigration and Naturalization Service. (Refer to N.J.A.C. 10:81-13 for alien verification procedures through the Systematic Alien Verification for Entitlements (SAVE) program.)

i. A statement of citizenship/legal alien status and signature attesting to citizenship/legal alien status shall be provided before benefits can be issued to that individual. An adult eligible family member or applicant for the family in the absence of an adult family member shall sign for members under 18 years of age.

ii. If a signature is not provided for all eligible family members by the end of the 30-day processing standard, then only those individuals for whom there is a signature shall be eligible for benefits provided they meet all other eligibility requirements.

iii. The needs of ineligible members shall not be considered when determining eligibility and benefits for the remaining family members.

iv. Income and resources of those ineligible individuals who are parents of otherwise eligible children shall be considered available to the eligible family and shall be calculated in accordance with the stepparent deeming formula at N.J.A.C. 10:82-2.9.

2. Assistance through the AFDC-C, -F or -N segments and AFDC-related Medicaid shall not be granted to an illegal alien or to aliens admitted as students or visitors. However, United States citizen/lawfully admitted children of illegal aliens may still be eligible to receive AFDC-C, -F or -N segment benefits and AFDC-related Medicaid. The situations described in (c)2i through iii below serve as illustration of how to determine AFDC-C, -F, or -N status for U.S. citizen/lawfully admitted children of illegal aliens.

i. In the case of one illegal parent with U.S. citizen/lawfully admitted children, the children shall be eligible for AFDC-C due to parental deprivation (one parent is absent). The eligible unit will consist of the U.S. citizen/lawfully admitted children. There is no assistance payment for the illegal alien parent but his or her income shall be counted as available to the eligible unit in accordance with N.J.A.C. 10:82-2.9(d).

ii. If one parent is a legal alien, or a U.S. citizen and qualifies the children for AFDC-F segment, the children and legal alien/citizen parent shall be eligible under the -F segment. The other parent's income shall be counted as available to the eligible unit in accordance with 10:82-2.9(d) but his or her needs are not considered in determining the grant amount.

iii. If one or both parents are not legal aliens or legal alien/U.S. citizens and the parents do not meet the criteria to qualify the children for AFDC-F, the children may, if otherwise eligible, qualify for -N segment benefits if they are U.S. citizens/lawfully admitted aliens. If both parents are illegal aliens, the parents' income is counted as available to the eligible unit in accordance with N.J.A.C. 10:82-2.9(d) and the children form an -N segment unit of their own. If one parent is an illegal alien and the other parent is a legal alien/U.S. citizen, the children plus the legal alien/U.S. citizen parent form an AFDC-N segment unit.

3. Individuals who have been granted lawful temporary resident status by Immigration and Naturalization Services (INS) as a result of the Immigration Reform and Control Act (IRCA) of 1986, amended section 245A, shall be disqualified for AFDC-C and -F segment assistance payments for a period of five years from the effective date of that status. That period of ineligibility for AFDC payments shall remain in effect even though the temporary status may change to that of lawful permanent resident status during that interval.

4. Cuban and Haitian entrants, who have resided in the United States since January 1, 1982, may qualify for immediate permanent resident status and shall not be subject to the disqualification provision for AFDC-C and -F benefits.

Amended by R.1976 d.408, effective January 1, 1977.

See: 8 N.J.R. 467(c), 9 N.J.R. 23(c).

Amended by R.1977 d.452, effective December 1, 1977.

See: 9 N.J.R. 367(c), 10 N.J.R. 16(b).

Amended by R.1978 d.140, effective May 1, 1978.

See: 10 N.J.R. 106(c), 10 N.J.R. 225(a).

Amended by R.1979 d.233, effective June 14, 1979.

See: 11 N.J.R. 68(c), 11 N.J.R. 346(d).

Amended on an emergency basis, R.1981 d.397, effective September 30, 1981 (operative October 1, 1981), expires November 30, 1981.

See: 13 N.J.R. 759(a).

Readopted, R.1981 d.518, effective December 31, 1981.

See: 13 N.J.R. 759(a), 14 N.J.R. 102(c).

(c): "an alien ... residence or" deleted and "otherwise" added; "including ... Act" added.

Amended on emergency basis, R.1984 d.464, effective September 28, 1984 (operative October 1, 1984).

See: 16 N.J.R. 2833(a).

(a) amended.

Readopted, R.1984 d.569, effective November 28, 1984.

See: 16 N.J.R. 2833(a), 16 N.J.R. 3439(b).

Amended by R.1985 d.99, effective March 4, 1985.

See: 16 N.J.R. 3282(a), 17 N.J.R. 594(a).

Section substantially amended.

Amended by R.1989 d.496, effective September 18, 1989.

See: 21 N.J.R. 1795(a), 21 N.J.R. 3006(a).

Proof of citizenship/alien status required for eligibility; conditions placed upon applicants according to status.

Amended by R.1992 d.366, effective September 21, 1992.

See: 24 N.J.R. 2147(a), 24 N.J.R. 3345(a).

Added exclusion of non-needy stepparent and his or her children.

Amended by R.1994 d.429, effective August 15, 1994.

See: 26 N.J.R. 1573(a), 26 N.J.R. 3479(a).

Amended by R.1994 d.612, effective December 19, 1994 (operative January 1, 1995).  
See: 26 N.J.R. 3930(a), 26 N.J.R. 5022(a).

#### Case Notes

Grandmother removed as primary caretaker for her daughter's children. Passaic County Board of Social Services v. G.B., 92 N.J.A.R.2d (DEA) 11.

AFDC grant permitted to alien as U.S. resident under color of law, considering that her application for asylum was accepted by the Immigration and Naturalization Service, which issued work permit and had not decided asylum request. I.E. v. Passaic Cty. Bd. of Social Services, 3 N.J.A.R. 330 (1981).

#### 10:81-3.10 (Reserved)

As amended, R.1977 d.452, effective December 1, 1977.

See: 9 N.J.R. 367(c), 10 N.J.R. 16(b).

Amended by R.1989 d.496, effective September 18, 1989.

See: 21 N.J.R. 1795(a), 21 N.J.R. 3006(a).

Alien verification requirements added.

Repealed by R.1994 d.612, effective December 19, 1994 (operative January 1, 1995).

See: 26 N.J.R. 3930(a), 26 N.J.R. 5022(a).

Section was "Applicant in AFDC-N".

#### 10:81-3.11 Parent in AFDC-C, -F and -N segments

(a) In AFDC-C, the term "parent" shall refer to the natural and/or adoptive parent(s) or parent-person(s).

1. By law, in AFDC-C certain relatives shall be recognized as taking the place of a parent. The term "parent-person" is used to designate one or more such relatives who include those of half-blood, those persons of preceding generations denoted by prefixes "grand", and "great", brother, sister, stepfather, stepmother, stepbrother, step-sister, uncle, aunt, first cousin, nephew or niece. Such relative must be one with whom the dependent child is living, in a place of residence in New Jersey maintained by one or more such relatives as his/her or their own home.

i. A home is the family setting maintained or in process of being established as evidenced by assumption and continuation of responsibility for day to day care of the child by the relative with whom the child is living. A home exists so long as the relative exercises responsibility for the care and control of the child, even though either the child or the relative is temporarily absent from the customary family setting.

ii. Initial payments are authorized on behalf of a child who goes to live with a specified relative within 30 days of the receipt of the first payment, provided payments are not made for a concurrent period for the same child in the home of another relative.

iii. Payments are authorized to persons acting for specified relatives in emergency situations that deprive the child of the care of the relative through whom he/she has been receiving aid, for a temporary period necessary to make and carry out plans for the child's continuing care and support.

2. Under New Jersey law, relatives of persons who adopt children become legally related to such adopted children to the same extent that they are related to natural children of the adopting parent.

3. Spouses of any persons named in the above groups may be considered "parent-persons" even though the marriage has been terminated by death or divorce.

(b) In AFDC-F, the term "parent" refers to the natural or adoptive parents who have at least one eligible child residing with them who is under age 18 or under age 19 and a full-time student in a secondary school or in the equivalent level of vocational or technical training and is reasonably expected to complete the program before reaching age 19.

(c) In AFDC-N, the term "parent" is used to refer to two adults of the opposite sex who have at least one eligible child residing with them who is under age 18 or under age 19 and a full-time student in a secondary school or in the equivalent level of vocational or technical training and is reasonably expected to complete the program before reaching age 19. This child must be the natural child of both parents or the natural child of one and adopted by the other or a child adopted by both.

As amended, R.1977 d.452, effective December 1, 1977.

See: 9 N.J.R. 367(c), 10 N.J.R. 16(b).

As amended, R.1978 d.190, effective June 8, 1978.

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

As amended, R.1982 d.482, effective January 17, 1983.

See: 14 N.J.R. 1078(a), 15 N.J.R. 92(a).

Deleted reference to participation of those under age 21, to 19 years.

#### Case Notes

First cousin once removed as relative in fifth degree of kinship was parent-person. A.E. v. Essex County Division of Social Services, 93 N.J.A.R.2d (DEA) 12.

#### 10:81-3.12 Parent-minor in AFDC-C, -F and -N

(a) For purposes of this section the term parent-minor refers to a parent under age 18. (Special income deeming rules apply to a parent under the age of 18 residing in the same home as his or her parent(s) or guardian(s); see N.J.A.C. 10:82-3.14.) When application is made for AFDC-C by a parent who is under age 18 or for -F or -N where both parents are under age 18, the following action shall be taken in specific situations:

1. When a parent-minor who is maintaining or establishing a separate home for the child(ren), that is, in his or her own home or in the home of persons who would not qualify as parent-person, an application shall be accepted from such parent-minor. The parent-minor's parents shall be evaluated as legally responsible relatives (LRRs) for purposes of establishing capacity to support in accordance with the provisions of N.J.A.C. 10:82-3.10.

i. The current order is less than three years old or a request for review has been determined frivolous by the OCSPP. A frivolous request would exist if any one of the following occurs:

- (1) If either party's income has not increased or decreased by a minimum of 20 percent;
- (2) If either party is temporarily out of work or temporarily injured and unable to work;
- (3) The child(ren) for whom support is owed no longer resides with the custodial parent;
- (4) If either party is incarcerated or institutionalized; or
- (5) There is a good cause determination that the review of the case is not in the best interest of the child(ren).

ii. If a case has been eliminated from the review process, a notation shall be made in the file on the "Adjustment of Review Document," indicating the date of the review and the reason(s) for eliminating the case from the adjustment work list.

5. When all needed information is obtained, calculations using both parents' income and the New Jersey Child Support Guidelines, Court Rule 5:6A, will be formulated to determine the anticipated child support order. OCSPP will compare the amount to the current child support order.

6. No adjustment will be initiated if calculations determine the adjusted amount is not 20 percent over or under the current order.

i. A written notice will be issued to both parties advising that, as a result of the review, the case does not qualify for an adjustment; and if either party disagrees, he or she has 30 days to file a request for redetermination. The notice shall also advise the parties that a redetermination may be filed only if information on which the determination was made was incorrect or incomplete.

7. If calculations determine that the adjusted amount is 20 percent over or under the current order, or if medical support is not currently in the order, a notice of adjustment will be sent to both parties advising of the new amount as a result of the review. Both parties have 30 days to request a redetermination of the decision, or either party may file the appropriate application with the court.

Amended by R.1985 d.219, effective May 6, 1985.

See: 17 N.J.R. 165(a), 17 N.J.R. 1095(a).

(a)1ix added.

Amended by R.1986 d.55, effective March 3, 1986.

See: 17 N.J.R. 2845(a), 18 N.J.R. 480(a).

(a)1 recodified into (a); (a)1i-ix renumbered (a)1-9; (a)10-12 added.

Amended by R.1987 d.253, effective June 15, 1987.

See: 19 N.J.R. 343(a), 19 N.J.R. 1093(a).

(a)11 deleted; (a)12 renumbered (a)11.

Amended by R.1990 d.541, effective November 5, 1990.

See: 22 N.J.R. 1664(a), 22 N.J.R. 3373(a).

Deleted late payment fee of five percent for overdue support.

Administrative Correction to (a)10.

See: 24 N.J.R. 1499(a).

Amended by R.1993 d.282, effective June 7, 1993.

See: 24 N.J.R. 2328(a), 25 N.J.R. 2589(b).

Amended by R.1993 d.649, effective December 20, 1993.

See: 25 N.J.R. 2816(a), 25 N.J.R. 5949(a).

Amended by R.1994 d.159, effective March 21, 1994.

See: 26 N.J.R. 84(a), 26 N.J.R. 1349(a).

### 10:81-11.8 Responsibilities of the CWA

(a) Each CWA shall maintain a Child Support and Paternity (CSP) Unit.

(b) Staffing requirements: The CWA shall allocate and/or hire staff for the CSP Unit in quantity sufficient to effectively and efficiently carry out the provisions of N.J.A.C. 10:81-11.9 and parent locator functions outlined in N.J.A.C. 10:81-11.13 through 14. No CSP functions may be performed by staff that also performs income maintenance or social service functions. The CWA must maintain a separate line of authority for CSP staff. Exceptions may be granted to the staff separation requirement if it can be documented that such separation is not administratively feasible in sparsely populated counties. Approval for such exception must be granted by the Director of the Division of Family Development and the U.S. Department of Health and Human Services.

### 10:81-11.9 Responsibilities of the CWA/CSP Unit

(a) The CWA/CSP unit shall be responsible for taking appropriate action in those cases where an order does not exist to locate obligors, to establish paternity and/or secure child support and medical insurance due AFDC and Medicaid Only recipients. Upon application non-AFDC persons will be provided with location services; once location is established, non-AFDC persons will be referred to the Family Intake Unit to file a complaint. The CWA/CSP unit shall be responsible to annually send a notice of the amount of support payments collected during the preceding year to individuals who have assigned rights to support, as per N.J.A.C. 10:81-11.2(a)2; for securing all health benefits information, for referral of cases, when the whereabouts of the obligor is unknown, to the State Parent Locator Service; for providing services for location, filiation and obtaining and enforcing support for non-public assistance persons; and for referral of requests from consumer reporting agencies, concerning the amount of overdue support owed by an obligor, to the State Office of Child Support and Paternity, via Form CSP-166. (See N.J.A.C. 10:81-11.7 regarding responsibilities of the State agency.)

(b) Notification to remit support payments to the CWA:

1. Purpose: All support rights due AFDC-C recipients are assigned to the CWA and paid through the appropriate county probation department.

2. Appropriate probation department defined: The appropriate probation department shall be defined as the probation department which is currently collecting support payments for the AFDC recipient pursuant to a court order or in direct pay cases the probation department in the county in which the absent parent resides.

(c) Investigative interview: In cases where a court order does not exist and sufficient current information is not already available, the CSP Unit shall interview the AFDC recipient or IV-D applicant no later than 20 calendar days after receipt of the referral document.

1. Purpose of interview: The purpose of the interview shall be to obtain any information which may be necessary to assist the CSP Unit in the establishment of paternity and/or support and medical insurance and/or in its search for an absent parent (see N.J.A.C. 10:81-11.13 through 11.14). Such information shall be recorded in the case record as specified in (e) below.

2. Action resulting from the interview:

i. If the information provided by the AFDC recipient is sufficient to warrant legal action, such action shall be taken in accordance with (d) below. If information provided by the non-AFDC client is sufficient to warrant legal action, the non-AFDC client will be referred to the county family intake unit to file a paternity or non-support complaint and schedule a consent conference.

ii. If the AFDC recipient refuses to cooperate (see N.J.A.C. 10:81-11.5), the CSP Unit shall immediately contact the IM worker and such recipient's needs shall be deleted from the grant, subject to the requirements of adverse notice (see N.J.A.C. 10:81-7.1(k)).

iii. If the probation department refers an AFDC parent or parent-person to the CSP Unit for refusal to cooperate (see N.J.A.C. 10:81-11.5), the CSP Unit shall conduct an interview with such client within 10 working days to ascertain if there exists actual refusal to cooperate. The CSP Unit shall proceed in accordance with (c)2ii above. If it is determined that such person has cooperated, any pertinent information shall be forwarded to the probation department immediately.

(d) Legal action taken by the CSP Unit: If the CSP Unit collects information sufficient to locate the absent parent, legal proceedings shall be initiated for the purpose of establishing paternity and/or obtaining support and medical insurance within 90 working days of location. Each county welfare agency is required to have attorneys, all of which hold a plenary license to practice law in this State, who are in good standing and maintain a bona fide office for the practice of law in this State, either on staff or under contract, sufficient to represent the CWA in child support enforcement matters in court as necessary.

1. Consent process: For all cases in which sufficient information is available to initiate proceedings for the purpose of establishing paternity and/or obtaining support and medical insurance, a consent order will be attempted in accordance with individual county procedures within 90 calendar days of location.

i. Purpose: The consent process is to facilitate time efficient and cost effective methods to establish paternity and/or support and medical support orders.

ii. Definition: The consent process is a conference between the plaintiff and the defendant before a Family Division Intake Officer, to agree to a specific amount of child support based on an approved support formula, as outlined in the New Jersey Child Support Guidelines, Court Rule 5:6A, to be paid through the appropriate probation department.

iii. Results: If paternity is acknowledged and/or support and medical insurance are agreed upon, an order shall be established and forwarded to the appropriate court for review and approval by the judge within 90 calendar days.

2. Filiation proceedings: With regard to AFDC and AFDC/Medicaid Only cases in which paternity has not been acknowledged, the CWA/CSP Unit shall file a complaint to establish paternity in a court of competent jurisdiction within 90 calendar days of locating the alleged father.

i. Genetic test scheduling: If paternity is denied and the court orders genetic tests, the CWA/CSP Unit shall schedule the test at a legally and medically acceptable State approved facility within one year of successful service or the child reaching six months of age.

(1) The Office of Child Support and Paternity Programs shall develop a list of approved genetic testing laboratories through the competitive procurement process. The State shall award a contract to each laboratory on the list. In order for a county to receive Federal reimbursement for genetic testing fees it must choose the lowest cost vendor that can provide accessible, timely service and fulfill the unique needs of that agency. The CWA must contact and interview the laboratories on the list, beginning with the lowest cost vendor, until a qualifying vendor is chosen. Once a vendor is chosen, the CWA is not under obligation to contact or interview those laboratories of higher cost. The county must then request State approval to use the State contract with the chosen laboratory or to independently negotiate a contract with that laboratory at a lower cost than the State contract. If the lowest cost vendor on the list was not the county's choice, reasons for not using that vendor must be given. The same would apply to the next lowest cost vendor and so on until the chosen vendor is reached. Once State approval is granted the county agency will be responsible for carrying out the terms of the contract.

ii. Payment for genetic test: The CWA shall provide initial payment for paternity determinations in all AFDC and non-AFDC cases through any of the laboratories approved by the State. Although the CWA will provide initial payment, the CWA/CSP Unit shall have the court stipulate that the cost for genetic testing be paid by either of the parties involved as determined by the practice of the court. The only exceptions would be for the following reasons:

(1) The defendant is excluded and the court specifies that the defendant is not financially responsible.

(2) The defendant has been declared indigent by the court.

(A) Note: Defendant can be held liable for the cost and possible future payment in cases where he is found indigent.

iii. Legal proceedings waived: Filiation proceedings shall be waived when good cause is established as per section 402(a)(26)(B) of the Social Security Act. Good cause includes any case involving incest or forcible rape, or in any case in which legal proceedings for adoption are pending, if, in the judgment of the CWA, it would not be in the best interest of the child to pursue the establishment of paternity.

iv. Order of filiation: If the court finds that the person charged is the father, an order of filiation is made which also specifies the amount of support and medical coverage to be provided by the father for the maintenance of the child.

v. Refusal or inability to identify father: In cases where the mother refuses, or claims inability, to reveal the identity of the reputed father, a complaint may be filed naming the defendant as follows:

(1) "John Doe, reputed father of (name of child) said name John Doe being fictitious." Such a complaint must be accompanied by the affidavit of inquiry made by the CWA director or duly authorized representative, stating the mother's refusal or inability to identify the reputed father and that other diligent inquiry has failed to reveal the identity. The court may then hold an examination of the mother who withheld disclosure of the name of the reputed father. If she refuses to cooperate, the court may hold her in contempt.

(A) Normally after such a complaint is filed and an examination held as required for disclosure or identity of the reputed father, a warrant will be issued against the reputed father so that when he is personally served, he may be subject to the jurisdiction of the court. This is followed by a hearing where testimony is given by the parties, on the basis of which the court decides the issue of paternity.

vi. Order of filiation denied: If a court of competent jurisdiction denies an order of filiation against an individual, the CSP Unit shall take no further action with regard to that alleged absent parent, except for appeal of the decision of the court, if warranted. If the court or administrative authority dismisses a petition for a support order without prejudice, the CWA/CSP unit shall examine the reasons for dismissal, determine when it would be appropriate to seek a support order in the future, and seek a support order at that time.

3. Support proceedings: In cases where paternity has been legally established through marriage and an agreement cannot be reached at the consent conference, the defendant will be brought before a hearing officer the same day or on the first available date. However, in all cases, establishing paternity or establishing a court order must take place within 90 days of location.

4. Filing of complaint: The applicant/recipient is not required, as a condition of eligibility for assistance, to sign a complaint to establish paternity or obtain support and medical insurance. Such complaints shall be filed in the name of the CWA by the director or his or her authorized representative within 90 calendar days of location or paternity establishment. Whenever possible, the complaints should be filed in the name of both the CWA and the client to ensure continuation of the court action should the client's assistance be terminated. In non-AFDC cases only the custodial parent will sign the complaint.

5. Treatment of cases in which the absent parent resides out-of-State: In cases where the absent parent resides out-of-State, proceedings to establish paternity and/or secure child support and medical insurance shall be in accordance with the Uniform Reciprocal Enforcement of Support Act (1968) (URESAs) or, to establish paternity, in accordance with the State's long arm statute, under the Parentage Act at N.J.S.A. 9:17-46(b); whenever appropriate. Within 20 calendar days of determining the absent parent is out-of-State, the CWA/CSP Unit, with the client's cooperation, will file a Uniform Support Petition and General Testimony for URESAs or, when necessary, a request for location services with the State's central registry.

i. Where an order for support exists, the CWA will request payment enforcement through the local County Probation Department (CPD) by use of URESAs Action request (OS546-01).

6. Treatment of cases in which the absent parent is incapacitated: In cases where it has been verified that the absent parent is permanently disabled, the case shall be processed in the routine manner for obtaining or enforcing a court order, thus ensuring periodic financial evaluation.

7. Treatment of cases in which bankruptcy has been declared: The discharge of any child support obligation in

bankruptcy proceedings conducted under Title 11 of the U.S. Code is prohibited. Therefore, cases in this category shall be brought to the attention of the county probation department for appropriate action.

8. Treatment of cases in which the absent parent is incarcerated and involved in a work release program: If the absent parent is incarcerated in a prison that has a work release program, the CWA shall notify the work release coordinator that the prisoner is liable for child support.

9. Treatment of case in which the absent parent is deceased: In cases where the absent parent is deceased, verification of death must be obtained and a copy of the death certificate placed in the IV-D file. The case shall be designated as a closed IV-D case for statistical purposes.

10. Treatment of a case in which the absent parent is in the military: In cases where the absent parent is serving in the military, formal legal proceedings should be initiated (see (d)1 through 5 above).

i. If the absent parent is temporarily stationed out of the country and New Jersey does not have reciprocity with the particular country, the absent parent's commanding officer shall be contacted to obtain a voluntary admission of paternity and/or a military allotment for child support and medical coverage.

ii. In cases where the absent parent is serving in the military and there is a valid court order under the jurisdiction of a probation department within the State, a request for an allotment shall be made through the appropriate probation department.

(e) Rules on CSP case record are as follows:

1. CSP case record: Automated CSP case records shall be maintained for all AFDC cases referred to the CSP Unit. The case record shall be established on the Automated Child Support Enforcement System (ACSES) within 20 calendar days after receipt of referral from IV-A or the filing of a IV-D application. The case record shall be updated with new information within five working days of receiving such information.

i. Purpose of CSP case record: The purpose of the automated CSP case record is to compile, in one easily accessible location, all information relevant to CSP activities.

ii. The automated CSP case record shall contain the following information as applicable to each case:

(1) The date of the referral from IV-A to IV-D for each AFDC applicant/recipient or the date an application was filed for those individuals requesting nonpublic assistance (NPA) services.

(2) Information such as social security numbers, names, dates of birth, home addresses and mailing address on individuals against whom support obligations are sought to be established or enforced and on individuals to whom support obligations are owed.

(3) A record of any contact with the AFDC applicant/recipient or NPA individual. The date and reason for contact, and the result thereof shall also be documented.

(4) A record of any contacts with the absent parent, the date and reason therefor, and the results of such contacts.

(5) A record of all efforts to utilize locate sources, including the dates and results of these efforts.

(6) Paternity establishment information.

(7) A record identifying the court order and information regarding delinquency and enforcement activities, as well as collection and distribution.

(8) Medical support information.

(9) A record of communications to and from the Office of Child Support and Paternity Programs or any other CSP agency.

(10) A record of communications to and from income maintenance staff concerning the case.

(11) A record of deletions, terminations, suspensions or transfer of case/individual, the date and the reason for such action.

iii. Legal proceedings waived: If legal proceedings are waived in accordance with (d)2iii above, that fact shall be noted in the CSP case record and no further action shall be taken by the CSP Unit.

(f) Application for IRS full collection: Application for full collection by the IRS may be made only in those cases which involve a delinquent amount of a child support obligation under the order of a court of competent jurisdiction. Applicants/recipients of AFDC may be eligible for this service under Section 402(a)26 of the Social Security Act and 45 CFR 232.11 since the application for assistance assigns support rights to the State. Under Section 454(6) of the Social Security Act, non-AFDC families may also be eligible for this service when a signed "Application for IV-D Services" is obtained from the client.

1. Minimum amounts for IRS collection: Application for collections by IRS may be made only when the delinquent amount owed exceeds \$750.00

2. Fee chargeable to CWA: The CWA in the county in which the application was initiated (whether for AFDC or non-AFDC case) will be billed a collection fee of \$122.50 for each application certified by DHHS.

3. Frequency of application: No application for certification can be made within six months of a previous application in the same case except to correct an error or to make an adjustment to a prior application.

4. Approval or disapproval of application: If the Office of CSP Programs approves the application, it will then be submitted to the DHHS Regional Office of Child Support Enforcement, which will approve or disapprove the application. The CWA or county probation department (CPD) will be notified, in writing, by the Office of CSP Programs with regard to approval or rejection of the application.

5. Diligent effort to collection delinquent child support: The local CWA/CPD IV-D Unit must first make diligent and reasonable efforts to collect the delinquent amounts utilizing the State collection mechanisms. These efforts should include, among others, appropriate steps to locate the delinquent support obligor, to ascertain that person's current or last known employer, and to locate and levy against that person's assets.

6. Form CSP-109, Application for IRS Collection of Child Support: Application for such services is made via Form CSP-109, Application for IRS Collection of Child Support. Applications may be submitted by the director of the CWA or his or her designee or the chief probation officer or his or her designee. Certification and authorization of pertinent court order information and arrearage amounts must also be signed by the chief probation officer or any individual so designated by the chief. The application shall be submitted to the Office of CSP Programs and a copy retained in the case record.

(g) Access to IRS data for child support enforcement: Upon written request, the IRS is authorized to disclose individual income tax return information to State and local child support enforcement agencies. The State CSP Unit has been designated the single State unit responsible for requesting information and ensuring adequate safeguards against wrongful disclosure in accordance with Federal requirements. Records that may be accessed include master file information and tax return information.

1. Master file information: This information includes filing status, dollar amounts, nature of income, and the number of dependents. The State will record this information and then forward it to the requesting county.

2. Tax return information: This information includes gross income, names and addresses of payers of income, and names of dependent(s) claimed. The IRS will supply this information only if it is not reasonably available from any other source. The State will attempt to verify this information through third party sources. Only third party verification will be forwarded to the requesting CSP Unit.

3. Fee chargeable to CWA: The fee to the CWA for master file information is \$.20 per name search and \$2.65 per name for tax return information. The CWA will be billed at the end of each report quarter for the number of requests received by the State Child Support Unit. These expenses are reimbursable at the 70 percent Federal matching rate.

4. Restrictions against use of IRS data: Tax information disclosed to child support enforcement agencies shall not be used in litigation and shall not be divulged to third parties.

5. Security requirements: The Federal Government has issued the following security requirements for IRS tax information.

i. Minimum security required will be that of a locked container stored in a room that is locked when not in use and located in a building that is either locked or under security guard protection when not occupied. No more than two authorized personnel are permitted to have keys for the lock combination of the container. Only authorized personnel may be allowed access to the tax information on a "need to know" basis.

ii. An access list of persons authorized to process and request IRS data must be submitted to the New Jersey Office of Child Support and Paternity Programs before any information can be released. Access to areas where IRS information is stored or processed must be controlled to the degree that unauthorized personnel, to include janitorial staff, must be escorted there by an authorized individual during non-working hours. Locks or combination to the security container must be changed yearly or upon departure or reassignment of authorized personnel. When written material containing IRS data is no longer needed, it must be returned to the State CSP Office. No information provided by IRS may be copied in any manner. Records must be maintained as to the disposition of such material. Periodic inspections of State and local facilities by the IRS will be conducted to ensure that security precautions and confidentiality requirements are being met.

6. Unauthorized disclosure of information: It shall be unlawful for any officer, employee or agent, or former officer, employee or agent of any state or any local child support enforcement agency to disclose to any person, except as authorized in this title, any return or return information acquired by him or another person. Any violation of this paragraph shall be a felony punishable by a fine in any amount not exceeding \$5,000, or imprisonment of not more than five years, or both, together with the costs of prosecution.

7. IRS data request procedures: A request for IRS data is accomplished by submission of CSP Form -122, Request for IRS Master File Information, or CSP Form-123, Request for IRS Return Information.

i. Completion of Form CSP-122 shall be completed in duplicate and shall include the name(s) and title(s) of the designated official(s) authorized to maintain IRS master file data, the name(s) and title(s) of agency personnel authorized access to IRS information, a signature of the agency's director or designated representative, and the name, Social Security number, and welfare case number (WC# ) (or probation case number) for each case requested.

ii. Completion of Form CSP-123: Form CSP-123 shall be completed in duplicate and shall include the name(s) and title(s) of the designated official(s) authorized to maintain IRS return information, the name(s) and title(s) of agency personnel authorized access to IRS information, the signature of the agency's director or designated representative, the taxpayer's name, welfare case number (WC# ) (or probation case number), address, SSN, and tax period requested. In addition, a statement shall be included outlining the need for this request.

iii. Routing of Form CSP-122 and Form CSP-123: Forms CSP-122 and CSP-123 shall be submitted in duplicate to the State CSP Unit.

8. Documentation by CWA/CPD: The CWA/CSP Unit or CPD IV-D staff shall maintain individual records noting the dates when the information was received, who received the information, who had access to the information, and the date the information was returned to State.

(h) Collection of delinquent child support payments through offset of Federal income tax: Federal income tax refunds shall be offset when court ordered child support payments owed to county welfare agencies are delinquent.

1. Eligible cases: Court order child support payments must be at least three months in arrears and the delinquency must total at least \$150.00 to be eligible for Federal Tax Refund Offset.

2. CWA responsibilities: CWA/CSP Unit shall be responsible for submitting cases to the IRS Offset process where child support or a judgment has been ordered payable directly to the CWA by a court of competent jurisdiction via Form CSP-152 Tax Refund Offset Data Form. The CPDs will be responsible for submittal of those public assistance cases under their supervision which meet the eligibility requirements.

i. Completion of Form CSP-152, Tax Refund Offset Data Form: Form CSP-152 must be completed for each absent parent to be submitted for IRS Offset in accordance with instructions listed on the form. It should be noted that if the absent parent is under multiple court orders, only one Form CSP-152 should be completed.

ii. Completion of Form CSP-151, Batch Transmittal Tax Refund Offset Form: A CSP-151 form will be completed to transmit a batch of CSP-152 forms. Batches will include up to 25 cases. Each CSP-151 form must include a batch control number. The batch control number must be three digits and is to be prefaced with the submitting county's local code as outlined on Form CSP-152. Batches should be numbered consecutively (for example Atlantic: 001-001, 001-002, 001-003).

iii. Routing of Form CSP-152 and Form CSP-151: Forms CSP-151 and CSP-152 are to be forwarded to the State CSP Unit.

iv. Payment for submittal and collection costs: County welfare agencies shall pay the State IV-D agency for all direct costs incurred in submittals and collections for the Federal Tax Offset Program. Such payments are retroactive to the date of Offset Program implementation. Since the Division of Family Development prepays these fees, payment from the county welfare agency will be in the form of reimbursement of the Division of Family Development.

3. Automated submittal of cases for IRS Offset: Those county probation departments that are automated may submit cases for IRS Offset via magnetic tape. Specifications for magnetic tape layout will be issued annually.

4. Submittal date: The State CSP Unit must submit all requests for collection annually by October 1 of each tax year to the Office of Child Support Enforcement (OCSE).

5. Notification procedure for cases potentially eligible for offset: All taxpayers submitted for offset against their Federal income tax refund due to child support arrearages will receive notification of the offset prior to the end of the current tax year.

6. Inquiries or appeals pertaining to the offset: Taxpayers will be notified that any inquiries or appeals regarding the offset of their Federal income tax refund should be directed to the State CSP Unit.

7. Update of cases submitted for offset: Necessary updates (deletions or corrections) of cases submitted for offset, will be submitted via Form CSP-152 to the State CSP Unit. All updates must be received by OCSE prior to December 15 of the current tax year.

i. Completion of Form CSP-152; Deletions: If the original arrearages figure submitted for offset has been paid in full, the original amount of arrearage will be placed in "amount owed" (blocks 68 through 75) on Form CSP-152 and a "D" will be placed in the "Action Code" (block 80). A deletion may be submitted immediately provided the arrears have decreased to \$49.00 or less.

ii. Completion of Form CSP-151; Deletions: Deletion forms should be batched in the same manner as initial submittals (see (h)2ii above). These batches should contain only deletions and the batch transmittal must be identified as containing only deletions by printing a large "D" above the batch information area.

iii. Completion of Form CSP-152; Corrections: If the arrears have been reduced since the original submittal of the case, the new arrearage figure will be placed in "Amount Owed" (blocks 68-75) of Form CSP-152 and a "C" will be placed in the "Action Code" (block 80).

iv. Completion of Form CSP-151; Corrections: Correction forms should be batched the same number as original submittals (see (h)2ii above). These batches should contain only corrections and the batch transmittal must be identified as containing corrections by printing a large "C" above the batch information area. Multiple corrections should be tracked to ensure submittal of the most current information possible.

(1) Note: Batches should be numbered sequentially in order of submittal regardless of the type of batch.

v. Routing of Forms CSP-151 and CSP-152 for update: Forms CSP-151 and CSP-152 are to be routed in the same manner as original submittals (see (h)2iii above).

vi. Automated submittal of deletions and corrections for IRS offset: Those counties that are automated and have submitted original request for offset via magnetic tape, will submit request for deletion or correction via magnetic tape in accordance with annual instructions for tape layout.

8. Joint returns for cases submitted for Federal IRS tax refund: In situations where a taxpayer and his employed spouse have filed a joint return and the spouse is not responsible for the child support debt, the involved parties should be referred to their nearest IRS Service Office to complete a 1040X Form for a prorated refund. The parties should bring a copy of their completed tax return and copies of all W-2 forms.

9. Interstate notification: In interstate cases, only the state that has been assigned the support rights may request offset of IRS refunds. The submitting state must inform the reciprocating state of the submittal and advise that state when a collection is received so that accurate accounts can be maintained.

10. Restriction of information to IV-A units: The IV-D units shall not release address information obtained from IRS through the Tax Refund Offset Program to IV-A units.

(i) Collection of delinquent child support payments through the New Jersey State Income Tax/Homestead Rebate (SOIL) Project: Delinquent child support payments owed to the county welfare agency may be offset through the New Jersey State Income Tax/Homestead Rebate (SOIL) Project.

1. Eligible cases: Cases with a minimum arrearage of \$25.00 may be submitted for offset under this program.

i. Note: Cases submitted under the Federal IRS Offset Project should not be submitted under this program. Cases submitted for the Federal Offset Project will automatically be forwarded for offset under the SOIL Project.

2. Submittal of eligible cases: CWA/CSP Unit shall be responsible for submitting cases to the SOIL Project where child support or a judgment has been ordered payable directly to the CWA by a court of competent jurisdiction. The CPDs shall be responsible for submittal of those public assistance cases under their supervision which meet the eligibility requirements. Cases will be submitted via Form CSP-152.

i. Completion of Form CSP-152, Tax Refund Data Form: Form CSP-152 shall be completed in the same manner used when submitting for the Federal Tax Refund Offset (see (h)2i above).

ii. Completion of Form CSP-151, Batch Transmittal Tax Refund Offset Form: Form CSP-151 shall be completed in the same manner used when submitting for the Federal Income Tax Refund Offset (see (h)2ii above). Each batch should contain only cases submitted for the SOIL Project and must be indicated as such by printing a large "S" above the batch information area on the batch transmittal form.

(1) Note: Batches should be numbered sequentially, in order of submittal, regardless of the type of batch.

iii. Routing Forms CSP-151 and CSP-152: Forms CSP-151 and CSP-152 shall be routed to the State CSP Unit in the same manner used when submitting for the Federal Income Tax Refund Offset (see (h)2iii above).

3. Automated submittal of cases for collection of delinquent child support payments through the N.J. State Income Tax/Homestead Rebate (SOIL) Project: Counties that are automated may submit cases for State Income Tax/Homestead Rebate Offset via magnetic tape in accordance with specifications issued annually.

4. Submittal date: The State CSP Unit must submit all requests for collection of delinquent child support through the N.J. State Income Tax/Homestead Rebate (SOIL) Project annually by January 1.

5. Additions for collections of child support payments through Homestead Rebate: The State CSP Unit must submit all additional requests for Homestead Rebate Offset annually by June 1.

6. Notification procedure for cases potentially eligible for offset of State Income Tax/Homestead Rebate: All taxpayers submitted for offset against their State Income Tax/Homestead Rebate due to child support arrearages will receive notification of the offset from the Division of Taxation.

7. Inquiries or appeals pertaining to the offset: Taxpayers will be notified that any inquiries or appeals regarding the offset of their State Income Tax/Homestead Rebate should be directed to the State CSP Unit. Taxpayers will have 35 days from the date of the notice to appeal the offset.

8. Update of cases submitted for offset, State Income Tax Refund/Homestead Rebate: Necessary updates (deletions or corrections) will be processed in the same manner as cases submitted for Federal Income Tax Refund Offset (see (h)7 above).

i. Note: Cases submitted should be identified as Offset of State Income Tax Refunds/Homestead Rebate by printing a large "S", in addition to the "D" for deletions or "C" for corrections, on the CSP-151, Batch Transmittal Tax Refund Offset Form.

9. Joint returns for cases submitted for State Income Tax Refund/Homestead Rebate: In situations where the debtor and his employed spouse may have filed a joint return and the spouse is not responsible for this child support debt, a written request for an appeal must be forwarded to the State CSP Unit and must include taxpayer's name, spouse's name, and both Social Security numbers. This appeal will be referred to the Division of Taxation for appropriate action.

10. County welfare agencies shall pay all direct costs incurred in submittals and collections under the State Income Tax Refund/Homestead Rebate Program. Such payments are retroactive to the date of Rebate Program implementation. Since the Division of Public Welfare prepays such fees, payments from county welfare agencies will be in the form of reimbursement to the Division of Public Welfare.

(j) Payment of costs for unemployment garnishments: County welfare agencies shall pay all direct costs incurred in submittals and collections under the State Unemployment Garnishment Agreement with the New Jersey Department of Labor. Such payments are retroactive to the date of garnishment program implementation. Since the Division of Public Welfare prepays such fees, payments from the county welfare agencies will be in the form of reimbursement to the Division of Public Welfare.

(k) Payment of costs for lottery intercept: County welfare agencies shall pay all direct costs incurred in submittals and collections under the State Lottery Intercept Agreement with the New Jersey Department of Treasury. Such payments are retroactive to the date of program implementation. Since the Division of Public Welfare prepays such fees, payment from the county welfare agencies will be in the form of reimbursement to the Division of Public Welfare.

(l) The first \$50.00 of child support collected in a month, that is received in the month due, shall be sent to the AFDC family within 15 calendar days of the end of the month in which the support is received.

1. The first \$50.00 of the child support payment, as described in paragraph (l) above, is disregarded when determining AFDC eligibility and the amount of the AFDC payment. This \$50.00 payment to the family is referred to as the \$50.00 disregard payment.

(m) Title IV-D services available to non-public assistance persons: Appropriate child support services are to be made available to non-public assistance persons upon application filed by such individual with the IV-D Agency. These services shall include locating obligors, establishing paternity and securing support and medical insurance.

1. State of New Jersey Title IV-D Program Application for Child Support Services: Non-public assistance individuals requesting services from the CWA shall apply for such services by signing the State of New Jersey Title IV-D Program Application for Child Support Services. This form shall be executed in duplicate. (See N.J.A.C. 10:81-11.2(c) regarding application fee.) The CWA will provide an application for services on the day a request is made in person. The CWA will provide an application for services in no more than five working days of receipt of a written or telephone request. Information describing services, rights and responsibilities, fees, cost recovery and distribution policies must accompany all applications for services. An application must be accepted on the day it is received.

i. Purpose: In order for the CWA/CPD to obtain FFP for non-public assistance child support and collection activities, an individual must sign an application for such services.

ii. Routing of Form CSP-111: This form must be executed in duplicate. The original shall be filed in the NPA applicant's case record and the duplicate given to the client at the time of application.

2. Parent Locator Services: NPA persons are entitled to receipt of PLS services to the same extent and for the same purposes as public assistance persons.

i. No active intrastate order: If no active intrastate order exists, the parent locator service shall be utilized by the county welfare agency to locate the absent parent for the purpose of obtaining child support (see N.J.A.C. 10:81-11.14).

ii. Active intrastate support order: If an active intrastate order exists, the county probation department charged with enforcement of the order will be responsible for providing parent locator service to the non-public assistance person.

3. Establishing paternity: Non-public assistance persons are entitled to receipt of services regarding the establishment of paternity to the same extent as public assistance persons.

4. Obtaining an order: Non-public assistance persons seeking support payments and medical insurance shall be referred to the county intake unit responsible for initiating consent conference.

i. Once an order has been established, non-AFDC cases will be processed for review and adjustment as outlined at (b) above.

5. Documentation of action taken by CSP Unit: All action taken by the CSP Unit on behalf of a non-public assistance person shall be documented in a CSP case file in accordance with (e) above.

Amended by R.1985 d.219, effective May 6, 1985.

See: 17 N.J.R. 165(a), 17 N.J.R. 1095(a).

Added text in (a): "for securing and . . . and Health Services;"

Amended by R.1986 d.55, effective March 3, 1986.

See: 17 N.J.R. 2845(a), 18 N.J.R. 480(a).

(a) Substantially amended.

Amended by R.1985 d.62, effective March 17, 1986.

See: 17 N.J.R. 369(a), 18 N.J.R. 562(a).

Amended (h)-(l).

Amended by R.1986 d.243, effective July 7, 1986 (operative August 1, 1986).

See: 17 N.J.R. 2516(b), 18 N.J.R. 1383(b).

(h)10 added.

Amended by R.1987 d.253, effective June 15, 1987.

See: 19 N.J.R. 343(a), 19 N.J.R. 1093(a).

Text added to (a) "to annually send . . . per N.J.A.C. 10:81-11.2(a)2;"

Amended by R.1989 d.496, effective September 18, 1989.

See: 21 N.J.R. 1795(a), 21 N.J.R. 3006(a).

Procedural requirements deleted.

Amended by R.1990 d.401, effective August 6, 1990.

See: 22 N.J.R. 1053(a), 22 N.J.R. 2318(a).

CWA pays all fees for paternity determination tests, AFDC and non-AFDC.

Amended by R.1990 d.541, effective November 5, 1990.

See: 22 N.J.R. 1664(a), 22 N.J.R. 3373(a).

Established maximum timeframes; deleted use of obsolete form; "blood test" replaced by "genetic test" and required medical support as condition for IV-D services.

Amended by R.1993 d.1, effective January 4, 1993.

See: 24 N.J.R. 2327(a), 25 N.J.R. 115(a).

In subsection (d): added text indicating that each CWA must have attorneys, either on staff or under contract, to represent the CWA in court in paternity establishment and child support enforcement matters. Amended by R.1993 d.282, effective June 7, 1993.

See: 24 N.J.R. 2328(a), 25 N.J.R. 2589(b).

Administrative Correction.

See: 25 N.J.R. 5950(a).

Amended by R.1993 d.649, effective December 20, 1993.

See: 25 N.J.R. 2816(a), 25 N.J.R. 5949(a).

Amended by R.1994 d.159, effective March 21, 1994.

See: 26 N.J.R. 84(a), 26 N.J.R. 1349(a).

Amended by R.1995 d.271, effective June 5, 1995.

See: 27 N.J.R. 1937(a), 27 N.J.R. 2223(a).

#### 10:81-11.10 Fiscal record maintenance

The CWA shall be responsible for the maintenance of records involving receipt of child support payments. Procedures contained in Chapter IV of the Accounting Manual shall be followed.

#### 10:81-11.11 Good cause determination

(a) The CSP Unit shall not undertake to establish paternity or secure child support and medical insurance when the unit has received notice from the income maintenance unit that there has been a finding of good cause for noncooperation (N.J.A.C. 10:81-11.5), except as noted in N.J.A.C. 10:81-11.5(j)2.

1. Activities suspended: Upon receipt of notice from the IM Unit that an applicant/recipient has claimed good cause (see N.J.A.C. 10:81-11.5(i)2), the CSP Unit will, until notified of a final determination, suspend all activity

in regard to establishment of paternity, and collection of support and/or medical insurance.

2. CSP activity without client participation: When there has been a finding that good cause exists but the IM Unit notifies the CSP Unit that child support enforcement may proceed without participation of the applicant/recipient, the CSP Unit will undertake to establish paternity and/or secure child support and medical insurance without involvement in any way of the applicant/recipient (see N.J.A.C. 10:81-11.5(j)).

Amended by R.1990 d.541, effective November 5, 1990.

See: 22 N.J.R. 1664(a), 22 N.J.R. 3373(a).

Requires the securing and enforcement of medical support as a condition of eligibility for IV-D.

#### 10:81-11.12 Notification of deletions, terminations, suspension or transfer of case/individual

(a) In the case of termination of AFDC assistance, the IV-D agency will notify the family that it will continue to collect and distribute current child support payments. The appropriate IV-D agency collecting support must be notified of the continuation of IV-D services for families that lose AFDC eligibility.

Amended by R.1985 d.210, effective May 6, 1985.

See: 17 N.J.R. 164(a), 17 N.J.R. 1094(b).

(b) added.

Amended by R.1990 d.541, effective November 5, 1990.

See: 22 N.J.R. 1664(a), 22 N.J.R. 3373(a).

Deleted use of obsolete form CSP-157.

#### 10:81-11.13 Parent Locator Service

(a) The locating of absent parents for the purpose of establishing paternity and enforcing child support and medical insurance obligations is a CWA responsibility. To fulfill this requirement, the CWA shall establish a parent locator service within the CSP Unit to perform parent locator services as described in N.J.A.C. 10:81-11.14.

1. The CSP Unit will conduct parent location activity in all cases for which no court order exists within 30 working days of application or referral. In cases where a court order does exist, the probation department has responsibility for parent location activities; however, it is recommended that on cases where court ordered support is not being received the CWA notify the probation department of the need for enforcement.

Amended by R.1990 d.541, effective November 5, 1990.

See: 22 N.J.R. 1664(a), 22 N.J.R. 3373(a).

Established within 30 day time frame for conducting parent location activity.

#### 10:81-11.14 CWA parent locator responsibilities

(a) The CSP Unit shall conduct ongoing investigations to locate the absent parent at the local, State and Federal levels as necessary based on information obtained during the investigative interview or other leads. The opening of a case and referral for location must take place within 20

calendar days. All locate sources are required to be accessed and responses verified within 75 calendar days of determining that location is necessary. CWA/CSP shall utilize the Automated Child Support Enforcement System (ACSES) to do searches and appropriate systems-generated forms. When the absent parent is believed to be in another county within the State, the CSP Unit shall access ACSES to obtain all necessary information to pursue location.

1. Sources: The following sources are to be used by the CWA/CSP Units during its investigation, as appropriate. All of these sources may not be available in every county. This list of sources is not exclusive.

- i. Gas and electric utilities (regarding disconnections or transfer of services);
- ii. Telephone company;
- iii. Neighbors and landlords;
- iv. Last known employer of absent parent regarding:
  - (1) Current employment;
  - (2) Date and reason for termination;
  - (3) Social Security number and date of birth;
  - (4) Address to which last W-2 form was mailed;
- v. Friends of absent parent;
- vi. Local post office for change of address;
- vii. Absent parent's relatives;
- viii. Recipient's relatives;
- ix. Loan companies;
- x. County court house records:
  - (1) Loan agreements;
  - (2) Mortgages;
  - (3) Real property ownership;
  - (4) Other family court matters pertaining to child support matters;
- xi. Voter registration records;
- xii. Local law enforcement agencies; and
- xiii. Credit bureaus and credit reporting agencies and the ACSES Find Screen to determine if the absent parent is connected to any other AFDC case.

(b) Inter-county cooperation requirement:

1. When an absent parent is believed to be in another county within the State, the CSP Unit shall send a request to such county's CSP Unit for assistance in locating the parent.

2. Counties are directed to share known information on an absent parent even when it is not requested by another county, or the requesting county has changes. This information should be sent to the county in charge of the case where it can be input onto the ACSES system. The information will be entered as an update to the absent parent screen and known system-wide via ACSES.

(c) Absent parent located at client's address: If the absent parent is located and is residing at the same address as the client, an immediate referral from the CSP Unit to the appropriate IM Unit and the Fraud Unit is required. Such referral shall be recorded in the CSP file and shall include the date and reason for the referral.

(d) The following State sources are to be utilized by CWA/CSP for absent parent searches via automated interfaces on ACSES. This list is not all inclusive:

1. State Division of Motor Vehicles;
2. State Department of Labor;
3. Records of Public Assistance Agencies;
4. State Department of the Treasury;
5. State Department of Corrections; and
6. Parent Locator Services of other states (where appropriate).

(e) Federal PLS is to be utilized via tape interface to check the following sources:

1. National Personnel Records Commission (NPRC);
2. Department of Veterans Affairs (DVA);
3. Social Security Administration (SSA);
4. Internal Revenue Service (IRS); and
5. Department of Defense (DOD).

(f) If the Federal PLS is unsuccessful in the location process, cases which meet the minimum data requirements shall be resubmitted at least annually.

Amended by R.1990 d.541, effective November 5, 1990.  
See: 22 N.J.R. 1664(a), 22 N.J.R. 3373(a).

Align State rules with Federal statutes on the location of absent parents.

#### 10:81-11.15 State PLS/Federal Parent Locator Service (PLS)

(a) The State PLS shall be responsible for absent parent searches at the State agency level, coordination of interstate location activities, and referrals to the Federal PLS. This includes the Division of Youth and Family Services (DYFS), parental kidnapping, Administrative Office of the Courts (AOC) referrals, out-of-State and out-of-county locate requests.