

CHAPTER 90

WORK FIRST NEW JERSEY PROGRAM

Authority

N.J.S.A. 44:10-3; Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA); and the Work First New Jersey Act, Public Law 1997 c.13, c.14, c.37 and c.38.

Source and Effective Date

R.1997 d.311, effective July 1, 1997 (to expire January 1, 1998).
See: 29 N.J.R. 3287(a).

Chapter Historical Note

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 Chapter 90, The Handbook for Home Services Program, was repealed by R.1980 d.208, effective May 9, 1980.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

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

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

Chapter 90, Work First New Jersey Program, was adopted as R.1997 d.311, effective July 1, 1997 (to expire January 1, 1998). See: Source and Effective Date.

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SUBCHAPTER 1. GENERAL PROVISIONS

10:90-1.1 Purpose, philosophy and scope of the WFNJ program

(a) The Work First New Jersey (WFNJ) program has been established to transform the design and purpose of the welfare system in New Jersey. For the first time, one comprehensive program has been created by the Legislature and the Governor to uniformly both inspire and require all able-bodied families with dependent children, single adults and couples without dependent children to WORK rather than receive welfare. WFNJ builds and expands upon the foundation of the basic principles set forth in the Federal Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996, Public Law 104-193. The Act established the Temporary Assistance for Needy Families (TANF) block grant program which ended the Aid to Families with Dependent Children program and established the WFNJ Program pursuant to the Work First New Jersey Act, Public Law 1997 c.13, c.14, c.37 and c.38.

(b) WFNJ building upon the base of our former State and Federally funded Aid to Families with Dependent Children (AFDC) program and our State funded General Assistance (GA) program, creates one WFNJ program. However, due to certain necessary differences in the requirements and the responsibilities entailed in being a single adult, a couple without dependent children or a single adult

or couple with dependent children, the WFNJ program recognizes two segments which, for ease of reference and clarity throughout this manual are referred to as either the WFNJ/TANF component, which encompasses families with children whether headed by a single adult or a couple, and the WFNJ/GA component, which encompasses single adults and couples without dependent children.

(c) The WFNJ Program is designed specifically to emphasize personal responsibility, instill dignity, promote self-sufficiency and pride through work and strongly reinforce all parents' responsibility for their child(ren) through strict enforcement of child support requirements. WFNJ clearly recognizes that both parents of a child(ren), whether or not they are the custodial caretakers of these children share fully and equally in the responsibility for the financial support of the child(ren), as well as all the positive developmental aspects which occur throughout childhood. All adults have primary responsibility for supporting both themselves and their families.

(d) Assistance benefits provided under WFNJ are time-limited and considered a temporary cash subsidy to bridge the gap while individuals seek and obtain self-sufficiency through bonafide unsubsidized employment. Applicants shall be informed that receipt of WFNJ assistance benefits is limited to a lifetime maximum of 60 cumulative months and that seeking and accepting employment are the primary requirements for receipt of continuing cash assistance.

(e) In WFNJ, for the first time, a major commitment has been solicited from all arms of State and local government to pull together resources and philosophy to clearly demonstrate to all welfare and potential welfare clients that WORK is the answer and self-sufficiency is the key to a better life for all New Jerseyans. The changes brought about by this program are monumental. They require all adults to accept personal responsibility and immediately contribute something back to their community in return for the temporary helping hand WFNJ will provide them in their time of need or crisis. Welfare is not a way of life. Work, however, is a way of life for all able-bodied adults. WFNJ recognizes that working families and individuals need temporary supports such as child care, transportation and health care and has strengthened the State's commitments in these areas. Additionally, the WFNJ program is designed to increase the health and well-being of children and young adults reared within the welfare system as well as to instill in these children the dignity, value, pride and self-satisfaction that are derived from work and positively contributing to our society. While WFNJ maintains our commitment to protect the most vulnerable who are unable to care fully for themselves, the major focus in the New Jersey welfare system has definitely changed from welfare to work with the onset of WFNJ. This new era in the public welfare system should be made very clear by the focus and standards put forth in this manual.

(f) However, in line with protecting its most vulnerable citizens, it should be emphasized that the WFNJ Program has availed itself of the PRWORA option regarding protections for victims of Domestic Violence. PRWORA and WFNJ provide the flexibility to uniquely address the specific problems of victims of domestic violence, as well as victims of rape and incest. The flexibility provided is not intended to allow or force individuals to remain on the welfare rolls; rather, it is intended to extend to domestic violence survivors the flexibility, protections and services necessary to begin or continue on the path away from a life of abuse and forward toward a life that will provide safety; physical, mental and financial recovery and self-sufficiency gained through work experience and/or employment as soon as victims are able to avail themselves and their families of these opportunities.

1. When an individual in the course of either application, redetermination or at any other point of contact with the county or municipal agency is identified as a victim of domestic violence, rape or incest, it must be determined with the victim whether or not this represents an immediate barrier to engaging in work. If the victim attests to an inability to participate as would otherwise be required in WFNJ activities, an affidavit to this effect shall be secured from the individual. This affidavit will temporarily exempt the individual from the five year lifetime limit on benefits receipt and will also temporarily defer the individual from the requirement to engage in work or a work activity until the case is redetermined. At any point, the victim may provide corroborative evidence, if available, and it is clear to the victim that providing such information will in no way pose a threat to the safety of the victim and the victim's family.

i. Even though an affidavit is taken, an initial individual responsibility plan (IRP) will be developed with the individual to set goals so that the individual will move forward toward safety and self-sufficiency. Information and referral to the Department of Human Services' (DHS) Designated Domestic Violence Programs which provide all core services or to Rape Crisis Programs will be suggested to the victim as well as referral to any other appropriate community services which can assist the victim and any dependent children in the family. The goals established in the individual's IRP shall be reviewed with the individual at three month intervals to determine the status and progress the individual has made toward meeting the goals established in the IRP. If appropriate, the IRP will be updated to reflect the individual's progress and establish new goals. If, upon disclosure of the domestic violence victimization, the victim expresses a willingness to begin to engage in a work activity prior to the next regular redetermination, this shall be accommodated. For example, the victim may wish to begin work as soon as permanent housing has been secured, the children have been enrolled and settled in school and major court appointments have been kept.

ii. Once the individual has expressed a willingness to engage in work or a work activity the individual will no longer be exempt from the five year lifetime limit on benefits' receipt or deferred from work requirements, unless or until the victim encounters further debilitating factors due to domestic violence and makes these known to the county or municipal agency via an affidavit.

2. The State has a responsibility to protect victims in these cases but it also has a responsibility to help promote the victim's self-sufficiency. Therefore, at the point of the first regular six-month case redetermination following disclosure of domestic violence victimization, unless the victim is in crisis and clearly indicates via affidavit that the inability to participate in work activities still exists, when reviewing the IRP, the individual will be scheduled to begin a regular work activity or, at a minimum, engage in 20 hours per week of community service. If the victim requests or if the victim selects to do only 20 hours of community service, the victim will also be referred to the local DHS Designated Domestic Violence Program for core services, related support and/or community service placement in counties where arrangements have been made to assist such individuals through purchase of service agreements with the DHS Designated Domestic Violence Programs. The goals established in the individual's IRP shall be reviewed with the individual after three months to determine the status and progress the individual has made toward meeting the goals established in the IRP.

3. At each point of redetermination or three month review, the individual shall be encouraged to engage in work and be provided the supportive services available through the program to support the individual's work efforts. However, if still unable to engage in a work or community service activity after a full year (that is, at the second six-month redetermination) at review of the IRP, the individual will be referred to a DHS Designated Domestic Violence Program for an assessment of barriers to following a plan. If they still remain unable to fully engage in regular work or a work activity, a plan will be developed outlining specific safe and constructive activities for the victim and the victim's family which will allow them to move toward self sufficiency. The individual will be required to follow the plan or engage in community service in conjunction with a DHS Designated Domestic Violence Program. If at the time of the three-month review following the second six-month redetermination, still no constructive movement has occurred, completion of a WFNJ-5S, will be required to substantiate the continuing exemption/deferral. An exception to this shall be allowed only if the victim is currently being abused, is in crisis, is being sabotaged, stalked or harassed by the abuser and/or is deemed to be at risk of further abuse and this situation has been corroborated by the DHS Designated Domestic Violence Program or a Certified Domestic Violence Specialist (CDVS). Again, at any point the victim may provide corroborative evidence, if available, and it is clear to the victim that providing such information will in no way pose a threat to the safety of the victim and the victim's family.

(g) The purpose of this manual is to establish the policies necessary for the orderly and equitable provision of WFNJ Program benefits to single adults, couples without dependent children and families with dependent children on a Statewide basis. The policies and procedures are binding on the county or municipal agency charged with the responsibility for administering the WFNJ Program and are enforceable by the Department of Human Services (DHS), Division of Family Development (DFD). The DHS shall oversee the actions of the county or municipal agency as they relate to program administration and shall coordinate with other departments within the State of New Jersey in an effort to establish the necessary linkages to assist recipients of WFNJ to achieve social and economic self-sufficiency. Questions of interpretation shall be resolved by the Division of Family Development. If any rules herein contradict or conflict with rules or policies established at N.J.A.C. 10:81, 10:82, 10:83, 10:85, or 10:86 such material is superseded by this manual.

10:90-1.2 Opportunity and decision to apply

(a) Any person who believes he or she is eligible for WFNJ assistance must be given the opportunity to apply without delay. Applicants shall be informed about the

eligibility requirements and their rights and obligations in applying for and receiving assistance. The decision to apply rests with the person. The applicant has the right to withdraw the application before eligibility or ineligibility has been determined.

(b) The application process begins with the initial contact by a member of the assistance unit with the designated county or municipal agency and ends with a decision by that agency as to the eligibility of the assistance unit for WFNJ benefits. Both the applicant and the county or municipal agency have a responsibility to verify and document eligibility.

(c) Initial contact may be an inquiry, a referral or an application:

1. Inquiry: Inquiry means any request for information about assistance programs which is not a request for an application. A record is necessary only when the inquiry requires follow-up action.

2. Referral: Referral means a request from a public or private agency or individual for assistance on behalf of another individual/family. All referrals must be recorded with appropriate facts, and the disposition noted.

3. Application: Application means a written request for public assistance by an individual, couple without children, natural or adoptive parent(s), parent-person(s), parent-minor, or legal guardian acting on behalf of the individual/family.

(d) There are four types of applications: new application, reapplication, reopened application and transfer application (see N.J.A.C. 10:90-15 for definitions).

(e) The applicant(s) and/or his or her designee shall be assisted by the WFNJ worker in completing the Application and Affidavit for WFNJ and the Agreement to Repay. The applicant shall be given the WFNJ Participant Handbook and "Fair Hearings in the Work First New Jersey Program (WFNJ)" pamphlet.

(f) Responsibilities of the county or municipal agency during the initial contact shall include but not be limited to:

1. Determining the employability and/or type of assistance the applicant is seeking.

2. Explaining the programs/services and detailing the applicant's rights and responsibilities including his or her mandatory cooperation with Child Support and Paternity (CSP) requirements, work requirements, finger imaging, time limits, family cap provisions, requirements for affidavits regarding felony conviction, parole violation, drug conviction, and teen parent requirements.

3. Providing an orientation to the WFNJ program to each applicant for assistance to explain the need for each individual to comply with WFNJ work requirements as a condition of eligibility for WFNJ benefits, unless deferred. WFNJ recipients are required to register for work with the New Jersey Employment Service.

4. Informing the applicant how and where to apply and what verifications and documents are needed to complete the intake interview.

5. Advising the applicant that Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973 prohibit discrimination in determining eligibility for public assistance and furnishing him or her with a copy of the WFNJ Participant Handbook.

6. Determining whether the applicant does indeed wish to apply with full understanding of the need to verify essential eligibility factors and the requirement for a personal interview, which includes, as an initial step, a CSP interview.

7. Informing the applicant of the availability of the Food Stamp (FS) Program, specifying the requirements for qualification and, if appropriate, assisting the applicant in applying if he or she so chooses and assisting the applicant in obtaining verification documentation.

8. Advising a pregnant woman that she may make application for assistance for herself and the expected child up to 90 days before the expected birth date of her child as well as providing information regarding prenatal benefits available under Medicaid and supplemental benefits available under the Women, Infants and Children (WIC) program.

9. Taking the WFNJ application at the county level, which includes an Agreement to Repay as well as an application for Food Stamps and an application for Medicaid or medical benefits, as appropriate. Taking the WFNJ application at the municipal level for financial assistance and medical benefits only.

10:90-1.3 Immediate need

(a) If the county or municipal agency determines that immediate need exists, based upon an applicant's written statement signed under oath and subject to the applicant appearing to meet all other program eligibility requirements, the agency shall ensure that the needs of the assistance unit are met until such time as the final eligibility determination is made.

1. Immediate need means that the assistance unit lacks shelter or imminently lacks shelter, essential utilities, or has no food or insufficient food for unit members' immediate needs, or lacks minimal clothing to protect their health and safety. In those situations where no other appropriate services are available to meet the needs of the assistance unit, cash assistance shall be provided but such monies shall not exceed the amount of the cash assistance payment level for the appropriate eligible assistance unit size for that period.

10:90-1.4 Notice and information to client

(a) If immediate need is not apparent and a decision of approval or disapproval is not reached within 30 days of application, the county/municipal agency shall notify the applicant in writing of this fact and the reason for the delay (see N.J.A.C. 10:90-9). When a decision is reached, the applicant shall be notified in writing of this decision (approved or disapproved). If a county/municipal agency does not take action to approve or deny the application through no fault of the applicant then the agency shall act on the application in accordance with immediate need provisions at N.J.A.C. 10:90-1.3(a)1 above.

(b) In cases of domestic violence, rape or incest, corroboration should not be sought from the perpetrator of the rape or incest or from the abusive partner or ex-partner of a victim of domestic violence so that any further risk of harm to the victim is not heightened in accordance with the intent of N.J.S.A. 2C:25-18 et seq.

(c) Client will also be advised in writing that if he or she is dissatisfied with any adverse action or inaction of the county/municipal agency, he or she may request a hearing. He or she shall be informed of the steps that are to be followed in making such a request (see N.J.A.C. 10:90-9).

10:90-1.5 Prompt disposition by the county or municipal agency

Persons shall be given the opportunity to comply with the eligibility requirements and apply for WFNJ benefits without delay. Staff of the county or municipal agency shall accept, process and recommend action on applications for assistance within 30 days. If the applicant is eligible, payment shall be issued as soon as eligibility is established. The county or municipal agency shall act promptly and timely on applications as long as the WFNJ participant is eligible for assistance and is complying with program requirements. Failure of the county or municipal agency to act promptly and timely shall not be a basis for denying or delaying the issuance of benefits. The county and municipal agency shall also act promptly and timely on redetermining eligibility, but failure of the county or municipal agency to act promptly and timely shall not be a basis for delay in granting assistance.

10:90-1.6 Primary source of information

(a) Applicants and recipients are in all instances the primary source of information about themselves and their families. It is the responsibility of the county or municipal agency to determine eligibility and, as necessary, to secure verification from secondary sources. The applicant will be informed that the county or municipal agency 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 use of these sources shall be exhausted before other sources are used.

2. Sources of collateral evidence to establish eligibility may include, as appropriate, 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 records, 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 the above sources of evidence in (a) above, the county or municipal agency should bear in mind the type and source of document.

(c) 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.

(d) In situations concerning domestic violence, rape or incest, documentation shall be obtained from the person(s) who has factual knowledge of the relevant circumstances through the use of an affidavit. At no time should documentation be sought from the perpetrator of the rape or incest or from the abusive partner or ex-partner of a victim of domestic violence in accordance with the intent of N.J.S.A. 2C:25-18 et seq.

(e) With respect to "enumeration at birth," for WFNJ/TANF clients, the county agency shall request proof of receipt of the Social Security number (SSN) after six months from the child's birth have lapsed or at time of the recipient's next redetermination, whichever occurs first.

(f) The WFNJ worker shall take appropriate action and/or provide appropriate direction to the applicant to assure that all relevant documentation is promptly obtained. The WFNJ worker shall assist the applicant in obtaining verification documentation, whenever necessary.

10:90-1.7 Nondiscrimination

There shall be no discrimination on grounds of race, color, religion, sex, national origin, marital, parental or birth status, sexual orientation or disability by the State or the county or municipal agency in the administration of any public assistance program.

10:90-1.8 Adherence to law and regulations

There must be strict adherence to Federal and State laws and regulations.

10:90-1.9 No duplication of assistance

Financial assistance for maintenance or other needs shall not be authorized through public assistance when, during the same period, such financial needs are actually being provided by other agencies or organizations, whether public or private, unless such aid/assistance supplements but does not supplant WFNJ benefits. Supplementary programs such as Medicaid, SSI and FS, as well as in-kind contributions are not considered duplicative.

10:90-1.10 Assistance to non-English speaking applicants

Information, applications and agency personnel shall be available to assist non-English speaking applicants. Spanish language program material is routinely prepared by the Division and distributed to county and municipal agencies. Program materials in languages other than Spanish may be prepared based upon knowledge of the population served by programs under the auspices of the Division.

10:90-1.11 Release of information by county or municipal agency

Information about applicants or recipients will be used or disclosed only for purposes directly connected with the administration of public assistance and related services which cannot be offered without such information in accordance with the confidentiality provisions at N.J.A.C. 10:90-7.7.

10:90-1.12 Refusal to apply for eligible benefits

A person who appears to be eligible for other benefits such as (but not limited to) unemployment insurance benefits; disability benefits, Social Security; Retirement, Survivors and Disability Insurance; Supplemental Security Income; or Veterans' benefits and such person refuses or neglects to apply for such benefits within 30 days of written notification without good cause, the entire assistance unit shall be ineligible to receive cash assistance.

10:90-1.13 Change in circumstances

(a) The client shall be informed periodically (at least once every six months) by the agency of his or her continuing obligation to furnish accurate and timely information to the county or municipal agency concerning changes in income, resources, or other circumstances which may affect the amount of the grant. The client must inform the county or municipal agency of any change in circumstances as soon as possible but no later than 10 calendar days after the change takes place.

(b) If a client deliberately misrepresents or conceals relevant facts in order to obtain or attempt to obtain payments of assistance for which the individual is not eligible, fraud may be suspected and a referral for fraud/intentional program violation (IPV) shall be initiated (see N.J.A.C. 10:90-11.1 et seq.).

10:90-1.14 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 agency director may, in accordance with N.J.S.A. 44:7-20:

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 agency 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 the applicant.

(d) When all other means of determining facts and circumstances concerning an application for assistance have been exhausted, the agency director may initiate the necessary steps through a court to obtain a subpoena in order to obtain any pertinent records and any other documents.

1. Action for contempt of court may be initiated when such person fails to obey a subpoena or to testify to facts and circumstances pertinent to the application for assistance.

2. The refusal of such person to cooperate will not disqualify the applicant.

10:90-1.15 Voluntary quit

An adult applicant for WFNJ shall not be eligible for benefits when the applicant's eligibility is the result of a voluntary cessation of employment, without good cause, within 90 days prior to the date of application. The applicant will be ineligible for assistance for a period of 90 days beginning with the date of quit. Other members of the adult applicant's assistance unit shall remain eligible to apply for benefits (see N.J.A.C. 10:90-4.11(b)1 for voluntary quit provisions and N.J.A.C. 10:90-4.11(c) regarding good cause provisions).

10:90-1.16 Assignment or transfer of property

A voluntary assignment or transfer of income or resources within one year prior to the time of application for benefits for the purpose of qualifying for WFNJ benefits shall render the applicant/recipient and the applicant/recipient's assistance unit members ineligible for benefits in accordance with N.J.A.C. 10:90-3.10(e).

SUBCHAPTER 2. NON-FINANCIAL ELIGIBILITY REQUIREMENTS**10:90-2.1 General provisions**

(a) This subchapter describes those Work First New Jersey (WFNJ) program eligibility factors, other than financial, which must be considered in making eligibility determinations.

(b) Eligibility for WFNJ is based upon certain criteria including, but not limited to, age, relationship, CSP cooperation, cooperation with work requirements, citizenship/eligible alien status, residence in the State, county and municipality and financial need.

(c) Maximum allowable income eligibility and benefit payment levels for assistance units eligible for WFNJ benefits appear at N.J.A.C. 10:90-3.

10:90-2.2 WFNJ TANF/GA eligibility requirements

(a) An applicant/recipient, as a condition of eligibility for WFNJ TANF/GA benefits, shall, subject to good cause exceptions, be required to do the following:

1. Cooperate with child support by providing specific information regarding the non-custodial parent, such as, name, address, employer, date of birth, social security number or manufacturer, model and license plate number of automobile and take certain actions as requested by the child support agency to help establish paternity, or establish, modify, or enforce a child support order (See N.J.A.C. 10:90-16);

2. Cooperate with work requirements;

3. Make application for any other assistance for which members of the assistance unit may be eligible;

4. Be income and resource eligible, including the deeming of income and resources as appropriate;

5. Provide all necessary documentation;

6. Sign an Agreement to Repay benefits, if not already incorporated into the application, in the event of receipt of income or resources. (See N.J.A.C. 10:90-3.18 for Treatment of Lump Sum Income as well as N.J.A.C. 10:90-7.8 for Settlement of Suits and Claims);

7. Satisfy any sanction or repayment obligation incurred pursuant to any Federal or State law governing public assistance;

8. Supply the county/municipal agency with the Social Security number of each member of the assistance unit or apply for a Social Security number for any such person who does not already have one. If an applicant refuses to provide or apply for the appropriate Social Security number(s), the county/municipal agency shall declare the entire assistance unit ineligible for WFNJ benefits.

i. Effective no later than July 1, 1998, the Federal Social Security number shall be used as the common identifier of individuals for any record, license, certificate or other document identifying a person by name which is used by an agency of State government in accordance with requirements of Federal law.

ii. The Federal Social Security number must be provided for all assistance unit members, except for an eligible alien who cannot be assigned a Social Security number due to his or her status.

9. Comply with personal identification requirements as a condition of receiving benefits, which shall employ the use of high technology processes, such as, fingerprinting, for the detection of fraud.

i. Each adult WFNJ/TANF applicant/recipient and each WFNJ/GA applicant/recipient (except nursing facility applicants/recipients) shall, as a condition of receiving WFNJ benefits, be issued a photo-identification card by the county or municipal agency until implementation of the electronic benefit distribution system is begun in that county or municipal agency. Once a county or municipality begins to implement the electronic benefit distribution system, the county or municipal agency shall no longer be required to issue a photo-identification card to each adult recipient but may continue the issuance of photo-identification cards separate from the benefit cards.

ii. WFNJ/GA applicants/recipients (except nursing facility applicants/recipients) are required to participate in the high technology process, such as the fingerprinting process, at the time of application and at other times when the county/municipal agency deems it necessary to deter duplication of assistance.

(b) An applicant/recipient who is a parent-minor must, as a condition of eligibility, comply with all of (a) above and must also cooperate with the parent-minor provisions cited at N.J.A.C. 10:90-2.17.

(c) A recipient of WFNJ benefits who is subject to WFNJ work requirements, that is, all adult recipients, teen parents and 16-18 year old individuals not attending school on a full-time basis, shall sign an individual responsibility plan which shall be developed jointly with the county or municipal agency in accordance with the provisions at N.J.A.C. 10:90-4.8.

(d) Any WFNJ applicant/recipient who fails at any time to cooperate with any of the WFNJ program eligibility requirements without good cause shall render some or all assistance unit members ineligible for WFNJ benefits. (See N.J.A.C. 10:90-4.11 regarding sanction provisions and N.J.A.C. 10:90-11.11 regarding intentional program violation disqualification penalties)

(e) Any WFNJ recipient who fails at any time to participate in work activities without good cause shall lose cash

assistance benefits in accordance with the sanction provisions at N.J.A.C. 10:90-4.11. The individual may re-apply for WFNJ benefits; however, the individual must satisfactorily complete any outstanding sanction obligations and demonstrate compliance with a work activity, when the necessary supportive services are in place in order to qualify for cash assistance.

10:90-2.3 Time limits on eligibility for WFNJ TANF/GA benefits

(a) Effective April 2, 1997 eligibility for cash assistance benefits shall be limited to a lifetime total of 60 cumulative months for an adult individual recipient, except as otherwise provided in this subsection, whether the assistance was received in the WFNJ/TANF component, the WFNJ/GA component or a combination of both the WFNJ TANF/GA components of the program. The calculation of the lifetime limit will be based upon the number of days the recipient received benefits up to the 60 cumulative month lifetime limit.

1. At the end of an individual adult recipient's 60 cumulative months of receipt of cash assistance, the assistance unit shall no longer be eligible to receive WFNJ/TANF or WFNJ/GA assistance.

2. In the event that a recipient who has received cash assistance as a dependent child or parent-minor and later becomes a head of household or other adult assistance unit member, the time during which such dependent child or parent-minor had previously received benefits shall not count toward the 60 cumulative months lifetime limit.

3. For eligible aliens identified at N.J.A.C. 10:90-2.10, who are single adults or couples without dependent children, the benefit period is further limited by the alien's eligibility and application for citizenship status.

i. Eligible aliens who are single adults or couples without dependent children may receive benefits until they meet the minimum residency requirements to apply for citizenship; for example, they must have resided continuously within the United States, after being lawfully admitted for permanent residence, for at least three years immediately preceding the date of filing a petition for naturalization if they are married to a United States citizen or, if not, they must have resided continuously within the United States, after being lawfully admitted for permanent residence, for at least five years immediately preceding the date of filing a petition for naturalization, or a longer period only if required by INS rules.

ii. After residency requirements for citizenship are met, aliens who have applied for citizenship shall not receive benefits for more than six months unless they attain citizenship, or pass the language and civics component (prior to or at the time of the alien's interview with the INS, unless exempt), and are awaiting a final

INS determination delayed through no fault of their own.

iii. An alien who attains citizenship may continue to receive benefits for a lifetime total of 60 cumulative months from April 2, 1997 forward or the date of application for WFNJ/GA, if later than April 2, 1997.

iv. An alien who meets the requirements for residency and citizenship on or after August 22, 1996, but does not initiate the naturalization process shall not be eligible to receive benefits.

(b) A WFNJ/GA recipient's receipt of non-Federally funded general public assistance benefits while in another state shall count towards the WFNJ/GA 60 cumulative month lifetime limit.

(c) A WFNJ TANF/GA recipient's receipt of assistance from Federal TANF block grant funds provided by another state or territory shall count towards the 60 cumulative month lifetime limit, except for an adult recipient as described in (c)1 and 2 below.

1. In determining the number of months for which an adult has received assistance, any month during which the adult lived on an Indian reservation or in an Alaskan Native village shall be disregarded if, during the month, at least 1,000 individuals were living on the reservation or in the village and at least 50 percent of the adults living on the reservation or in the village were unemployed.

2. In determining the number of months for which an adult recipient has received cash assistance, the first 90 days of each period of a temporary disability resulting from injury or illness related to participation in a community work experience program (CWEP) or alternative work experience program (AWEP) shall be exempted from the 60 cumulative month time limit.

10:90-2.4 Exemptions from the 60 cumulative month time limit

(a) A WFNJ TANF/GA recipient shall be exempted from the 60 cumulative month time limit if the recipient is:

1. Over 60 years of age;

2. One parent, in a two-parent family or a caretaker relative of a disabled child or other disabled dependent who must provide full-time care for the disabled child or other disabled dependent;

i. A disabled child is a person from birth to the age of 18 years who has a medically determinable physical or mental impairment which substantially reduces the child's ability to function independently, appropriately, and effectively in an age-appropriate manner; whose impairment is expected to last for a continuous period of not less than 12 months; and who requires the continuous presence and personal services of the parent/caretaker relative to maintain his or her basic level of functioning.

ii. A disabled dependent is a person over the age of 18 years who suffers from a medically determinable physical or mental impairment which reduces the dependent adult's ability to engage in substantial gainful activity; whose impairment is expected to last for a continuous period of not less than 12 months; and who requires the continuous presence and personal services of the parent/caretaker relative to maintain his or her basic level of functioning.

3. Permanently disabled, including, but not limited to, a person eligible for disability insurance benefits under Title II or Title XVI of the Federal Social Security Act, but not to include any period of non-permanent incapacity;

i. A permanently disabled individual is an individual whose physical or mental impairment, defect or injury prevents them from engaging in any kind of employment or work activity for a period of more than 12 months as certified by use of multiple WFNJ-5S certifications or a WFNJ-5 (DRS1) certification. Such individuals may be awaiting eligibility determination for Federal long-term disability (SSI) benefits or be among those who have been determined by the State Department of Labor to be impaired to such a degree that they will not likely achieve employment even with the provision of vocational rehabilitation services. This includes persons who are permanently disabled because of HIV related illness who are eligible for Federal SSI benefits.

ii. Such individuals, if their physical or mental impairment allows, are encouraged to engage in part-time activities or employment less than 35 hours a week for a length of time as designated by the certifying physician. When such individuals choose to engage in an activity and/or employment and then find that their condition or impairment prevents such activity, he or she can revert back to deferred status and are not subject to sanction.

iii. At the time of case redetermination, a permanently disabled individual's condition shall be reviewed. A recertification using a WFNJ-5 (DRS1) shall not be required unless a change in condition occurs which indicates that the individual may be again work-ready. If the condition remains unchanged, a new Individual Responsibility Plan does not have to be completed for the permanently disabled individual.

4. Chronically unemployable as defined by the provisions below:

i. A chronically unemployable adult cannot be identified until at least 36 months have been spent in the WFNJ program and the adult has registered with Employment Services and exhibits a limited and inconsistent history of successful gainful employment or successful participation in work activities despite good faith efforts which have been documented. In addition, the adult has exhibited multiple personal, social or psychological factors which indicate that the person is unlikely to ever get and/or keep a job in the foreseeable future.

ii. No single factor or employment barrier is used to make a determination of chronically unemployable, but rather, the DFD designated review team (see 4iv below) shall utilize a combination of employment history as defined above and an extremely low literacy level, that is, below the fifth grade (when it is determined that academic advancement is impossible or would take many years to achieve), as well as at least one of the following factors (any one of which should trigger a referral of the individual to SSI and require medical verification):

(1) History of chronic substance abuse/early onset;

(2) High incidence of crises and traumas, both physical and emotional, as well as mental health problems, such as depression, over the person's lifetime;

(3) Borderline mental retardation or severe learning disability.

iii. When an adult individual exhibits early symptoms of being a person who will be eventually classified as a chronically unemployable individual, it is important to carefully plan a realistic Individual Responsibility Plan with such an individual to phase the individual gradually into activities to build up basic skills to instill confidence and reinforce any talents or aptitudes the individual exhibits. Also, when any one of the problem areas noted above are present, the individual should be directed to apply for SSI. Such individuals should be placed in less stressful work placements such as, but not limited to, supervised employment or community service activities. Referrals should also be made to all other appropriate services designed to assist the developmental progress of such individuals.

iv. When an individual appears to be chronically unemployable, the county/municipal agency shall refer the individual to a DFD designated review team for a final determination.

5. Subject to domestic violence (see N.J.A.C. 10:90-2.6 for a description of other program requirements which may be waived for victims of domestic violence). This exemption shall be based upon the request of the recipient. An affidavit taken from the recipient indicating that he or she is a victim of domestic violence shall be accepted as documentation that this situation exists.

10:90-2.5 Extensions to the 60 cumulative month time limit

(a) A recipient may receive an extension of no more than 12 cumulative months beyond the 60 cumulative month time limit, to be granted in increments that shall not exceed six months, if the recipient meets one of the following criteria:

1. The recipient or the recipient's dependent child would be subject to extreme hardship or incapacity in the event of a termination of benefits (see N.J.A.C. 10:90-6);

i. Extensions due to extreme hardship or incapacity will be evaluated within the last three months of the eligibility period prior to reaching the 60 month lifetime limit on benefit assistance. Extensions of this nature require prior approval and authorization by DFD. The assistance unit's case record shall be reviewed to determine if cause to grant an extension due to extreme hardship or incapacity exists. Extreme hardship may be defined as situations that would:

(1) Result when the recipient has secured gainful employment but without such an extension the transition of the assistance unit from WFNJ to employment could not be effected.

(A) In the instance noted above, extensions may be granted on a monthly basis.

(2) Result when, during a review of the case record, it was determined that periods of temporary incapacity experienced by the individual which resulted in work deferrals of more than 12 months did not allow the individual sufficient time in which to gain self-sufficiency during the individual's receipt of 60 months of cash assistance.

(3) Result from a situation in which the individual began work activities immediately as scheduled, has cooperated throughout all phases of the WFNJ program, has never incurred a sanction for failure to comply with any aspect of the program but fails at the end of the 60 months to secure employment which renders the assistance unit financially ineligible for continued benefits. This situation will be subject to review by a State appointed panel for a final determination.

(4) Result from when the individual experiences a domestic violence situation which renders the individual temporarily incapable of sustaining the family without continued support.

2. The recipient is engaged in full-time employment but remains eligible for benefits due to earned income disregards;

3. The recipient has not received an opportunity to engage in work activities as specified in the individual responsibility plan; or,

4. The recipient was engaged in full-time employment and was income-ineligible for benefits but was terminated from the employment through no fault of the recipient.

10:90-2.6 Domestic violence

(a) Certain WFNJ program requirements shall be waived for those recipients who have been screened and identified via an affidavit as victims of domestic violence, rape or incest. Requirements shall be waived in those cases where compliance with such requirements would make it more difficult for a recipient to escape domestic violence or where it would unfairly penalize the recipient who is or has been

victimized by any such violence, or who is at risk of further domestic violence. These recipients are also to be referred to supportive services by the WFNJ worker, as appropriate. The program requirements which shall be waived include, but are not limited to, the following:

1. Time limits on benefits;
2. Residency requirements;
3. Child support cooperation requirements;
4. The limitation on an increase of cash assistance benefits as a result of the birth of a child conceived as a result of domestic violence, rape or incest;
5. Work requirements, and
6. Cash assistance restrictions placed upon recipients who have lived in New Jersey for less than 12 months (See N.J.A.C. 10:90-3.1(d)) and fled their prior state of residence as a result of domestic violence.

10:90-2.7 Composition of the WFNJ/TANF and WFNJ/GA eligible assistance unit

(a) Composition of the eligible WFNJ/TANF assistance unit is as follows:

1. An eligible assistance unit under WFNJ/TANF shall be comprised of those individuals who are living together and functioning as one economic unit and whose relationship is based upon a blood and/or legal relationship. It includes children up to the age of 18, or up to the age of 19 if they are full-time students in a secondary school, or in the equivalent level of vocational or technical training, and are reasonably expected to complete the program before reaching age 19. Children up to the age of 21 are also eligible for WFNJ/TANF if they are enrolled in a special education program.

- i. When any school or course of training involves attendance during an academic year, a child shall be considered eligible during the summer months when he or she has been accepted for admission in the fall. He or she shall be considered eligible during regular vacation periods unless the educational program has been completed or unless there is verification that the child does not attend or is not acceptable to re-enter the program.

2. A recipient child cannot be included in the WFNJ/TANF cash payment after the month in which he or she attains the age when he or she is no longer eligible as a child. Furthermore, an individual who attains such age on the first day of the month is not considered to be of eligible age during that month and is not eligible for inclusion in the grant for that month. Additionally, the assistance unit ceases to be eligible for WFNJ/TANF when the youngest assistance unit member is no longer of eligible age. However, the individual adult(s) may apply for assistance under the WFNJ/GA component.

3. The term "parent" shall refer to the natural and/or adoptive parent(s) or parent-person(s). By law, certain relatives shall be recognized as taking the place of a parent.

- i. The term "parent-person" refers to any person related by blood, marriage or adoption who is within the fifth degree of kinship to the dependent child. This includes grandparents (2nd degree), siblings (2nd degree), great-grandparents (3rd degree), uncles or aunts (3rd degree), nephews or nieces (3rd degree), great-great grandparents (4th degree), great-uncles or aunts (4th degree), first cousins (4th degree), great-great-great grandparents (5th degree), great-great uncles or aunts (5th degree), or first cousins once removed (5th degree). (A first cousin once removed is the child of a person's first cousin.)

- (1) An applicant who is a parent-person may apply for WFNJ/TANF benefits for a child(ren) and him or herself as a needy parent-person.

- (2) Non-needy caretakers and/or parent persons shall also be eligible to apply for WFNJ/TANF benefits for the children in their care.

- ii. 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.

- iii. 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.

(b) Composition of the eligible WFNJ/GA assistance unit is as follows:

1. The WFNJ/GA assistance unit shall be comprised of one or more persons. In most cases, it will consist of a single individual, 18 years of age or over, or a couple without dependent children. In room and board or residential treatment situations, each person is an eligible unit of one. In all other situations, the eligible assistance unit shall consist of:

- i. The applicant/recipient;

- ii. The spouse of the applicant/recipient who lives in the home unless the spouse is receiving SSI or public assistance through another program; or,

- iii. The person with whom the applicant/recipient lives as a couple (but only if there was a previous history or current history of support) unless such person is receiving SSI or public assistance through another program.

10:90-2.8 Individuals ineligible for WFNJ TANF/GA

(a) The following persons shall not be eligible for assistance and shall not be considered to be members of the WFNJ/TANF or WFNJ/GA assistance units:

1. Non-needy caretakers, except that the eligibility of a dependent child shall not be affected by the income or resources of a non-needy caretaker;

2. Supplemental Security Income recipients, except for the purposes of receiving emergency assistance benefits;

3. Illegal aliens;

4. Other aliens who are not eligible aliens as defined in N.J.A.C. 10:90-2.10;

5. A person absent from the home who is incarcerated in a Federal, State, county or local corrective facility or under the custody of correctional authorities;

6. A person who is fleeing to avoid prosecution, custody or confinement after conviction, under the laws of the jurisdiction from which the person has fled, for a crime or an attempt to commit a crime which is a felony or a high misdemeanor under the laws of the jurisdiction from which the person has fled; or is violating a condition of probation or parole imposed under Federal or State law;

i. Under the laws of the State of New Jersey, a crime is defined at N.J.S.A. 2C:1-4(a) as "an indictable offense . . . or which a sentence of imprisonment in excess of 6 months is authorized."

7. A person convicted on or after August 22, 1996 under Federal or State law of any offense which is classified as a felony, high misdemeanor or crime, under the laws of the jurisdiction involved and which has as an element the distribution, possession, or use of a controlled substance as defined in section 102(6) of the Federal "Controlled Substances Act" (21 U.S.C. § 802(6)).

i. Under the laws of the State of New Jersey, a crime is defined at N.J.S.A. 2C:1-4(a) as "an indictable offense . . . for which a sentence of imprisonment in excess of 6 months is authorized."

ii. A person convicted on or after August 22, 1996 of any such offense which has as an element the possession or use only of such a controlled substance may be eligible for benefits if the person has successfully completed a drug abuse treatment program licensed by the State of New Jersey Department of Health and Senior Services (DHSS), at the conclusion of which the person is certified drug free by an authorized program representative.

(1) Eligibility for benefits shall commence upon successful completion of the established requirements of the DHSS licensed drug treatment program.

(2) During the first 60 days after successful completion of the drug treatment program or at the time

of application or case redetermination, it must be determined, via testing by an entity designated by DFD, that the person is free of any non-prescribed controlled substance. If the person is determined not to be free of any controlled substance during, or at the conclusion of, the 60 day period, the person's eligibility for benefits shall be terminated immediately.

(A) Benefits cannot be granted or reinstated until the person completes another drug treatment program, and remains drug free for a minimum of 60 days and is determined via testing to be free of any non-prescribed controlled substance.

8. A person found, on or after August 22, 1996, to have willfully and knowingly fraudulently misrepresented his or her residence in order to obtain means-tested, public assistance benefits in two or more states or jurisdictions, shall be ineligible for benefits for a period of 10 years from the date of conviction in a Federal or State court.

9. A person who, after July 1, 1997 and provided that the person has received written notice informing them of the WFNJ disqualification penalties, intentionally makes a false or misleading statement or misrepresents, conceals or withholds facts for the purpose of receiving benefits shall be ineligible for benefits for a period of six months for the first violation, 12 months for the second violation, and permanently for the third violation.

10. In addition to 1 through 9 above, persons found eligible for or who are recipients of WFNJ/TANF, or who have been found ineligible for such programs due to voluntary refusal to comply with program requirements shall not be eligible for WFNJ/GA assistance.

(b) WFNJ benefits shall not be payable for any month in which any individual in the assistance unit is participating in a strike. The individual who is on strike is ineligible for benefits; however, other members of the assistance unit remain eligible for benefits.

1. The term "strike" includes any strike or other concerted stoppage of work by employees (including a stoppage by reason of expiration of a collective bargaining agreement) and any concerted interruption of operations by employees.

2. The term "participating in a strike" means an actual refusal, in concert with others, to provide services to one's employers.

3. Examples of non-strikers who are eligible to participate in the program include, but are not limited to:

i. Employees whose workplace is closed by an employer in order to resist the demands of employees (for example, lockout);

ii. Employees unable to work as a result of striking employees (for example, truck drivers who are not

working because striking pressmen prevent newspapers from being printed); or,

iii. Employees who are not part of the bargaining unit on strike who do not want to cross the picket line due to fear of personal injury.

10:90-2.9 Definition of employable/unemployable persons in WFNJ/GA

(a) Definition of employable/unemployable persons for determination of payment level:

1. An employable person is any person applying for or receiving assistance who is able-bodied and does not meet any one of the criteria of deferred delineated in (a)2 below. Individuals who receive medicals only and are classified as employable shall comply with WFNJ work requirements.

2. An unemployable person is any person who meets any of the criteria listed below:

i. Persons who are over 60 years of age;

ii. Persons receiving inpatient hospital care and treatment who were receiving an unemployable grant prior to entering the hospital. (Persons who were listed as employable shall retain such employable status until hospital discharge.);

iii. Persons who are residents in long term care facilities;

iv. Persons in the first 12 months of residential treatment in centers licensed by the New Jersey Department of Health and Senior Services for the treatment of drug abuse, when medical evidence exists that the residential treatment is necessary (see N.J.A.C. 10:90-2.8(a)7ii regarding drug abuse treatment for those convicted of possession or use of controlled substances). The 12 month period starts anew for each commencement of treatment, previous incomplete or unsuccessful courses of treatment notwithstanding.

v. Persons normally eligible to receive RSDI (Title II benefits), SSI or Railroad Retirement benefits on the basis of disability, but due to administrative delays in that respective program, payments are being withheld;

vi. Persons who have been determined to be legally blind by the New Jersey Commission for the Blind and Visually Impaired;

vii. Persons in the third trimester of pregnancy when an examining physician certifies to both the pregnancy and its term;

viii. Pregnant persons when an examining physician certifies that employment poses a threat to the mother or the fetus;

ix. A caretaker relative of a disabled dependent who must provide full-time care for the disabled dependent. No more than one person in an eligible unit may be considered unemployable for this reason without written authorization from the DFD; and/or

x. Persons determined to be incapacitated by the agency which administers the WFNJ/GA program are unemployable when such determination of incapacity is supported by any of the following circumstances:

(1) Form WFNJ-5S, Confidential Medical-Psychiatric Examining Physician's Report, or WFNJ-5 (DRS1), Examining Physician's Report, as appropriate, shall be fully completed by an examining physician that the individual is unable to comply with WFNJ/GA requirements. Such certification shall include, at a minimum, the date of examination, diagnosis, length of incapacity, functional limitations, prescribed treatment, an indication of whether or not reevaluation will be necessary, and the examining physician's signature.

10:90-2.10 WFNJ TANF/GA citizenship/eligibility requirements

(a) Only those persons who are United States citizens, or eligible aliens shall be eligible for WFNJ TANF/GA benefits. In addition, for WFNJ/GA eligibility purposes only, those persons permanently residing in the United States under color of law as of August 21, 1996 are considered eligible for WFNJ/GA benefits.

1. Eligible alien means an alien as defined in the provisions of section 431 of Title IV of Federal Public Law 104-193 pursuant to section 101 of the Immigration and Nationality Act (INA).

(b) The following individuals are considered to be eligible aliens:

1. An alien present in the United States prior to August 22, 1996, and who is:

i. A lawful permanent resident;

ii. A refugee, pursuant to section 207 of the Immigration and Nationality Act;

iii. An asylee pursuant to section 208 of the Immigration and Nationality Act;

iv. An alien who has had deportation withheld pursuant to section 243(h) of the Immigration and Nationality Act;

v. An alien who has been granted parole for at least one year by the Immigration and Naturalization Service pursuant to section 212(d)(5) of the Immigration and Nationality Act;

vi. An alien granted conditional entry pursuant to section 203(a)(7) of the immigration laws in effect before April 1, 1980; or

vii. An alien who is honorably discharged or on active duty in the United States armed forces and his or her spouse and the unmarried dependent children of the alien or spouse.

2. An alien entering the United States on or after August 22, 1996 and who is:

i. An alien described in 1(ii), (iii), (iv), or (vii) above; or

ii. An alien described in 1(i), (v), or (vi) above is not eligible until five years after entry into the United States.

3. Certain eligible aliens, regardless of their date of entry into the United States, as provided in Section 431 of Title IV of Federal P.L. 104-193 pursuant to Section 101 of the INA who resided in the United States and are victims of domestic violence, subject to certain conditions as described below:

i. The alien has been battered or subjected to extreme cruelty in the United States by a spouse or a parent or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent acquiesced to such battery or cruelty; or,

ii. The alien's child has been battered or subjected to extreme cruelty in the United States by the spouse or parent of the alien (without the active participation of the alien in the battery or cruelty), or by a member of the spouse or parent's family residing in the same household as the alien when the spouse or parent acquiesced to and the alien did not actively participate in such battery or cruelty; and,

iii. In addition to the provisions described above, if the individual responsible for the battery or cruelty continues to reside in the same household or family assistance unit as the individual who was subjected to such battery or cruelty, then the alien shall be ineligible for benefits.

iv. Federal law stipulates that the Attorney General of the United States shall issue guidance in the Attorney General's sole and unreviewable discretion concerning:

(1) The alien has been battered or subjected to extreme cruelty in the United States by a spouse or a parent or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent acquiesced to such battery or cruelty; or,

(2) The alien's child has been battered or subjected to extreme cruelty in the United States by the spouse or parent of the alien (without the active participation of the alien in the battery or cruelty), or by a member of the spouse or parent's family residing in the same household as the alien when the spouse

or parent acquiesced to and the alien did not actively participate in such battery or cruelty; and,

(3) In addition to the provisions described above, if the individual responsible for the battery or cruelty continues to reside in the same household or family assistance unit as the individual who was subjected to such battery or cruelty, then the alien shall be ineligible for benefits.

(4) Federal law stipulates that the Attorney General of the United States shall issue guidance in the Attorney General's sole and unreviewable discretion concerning:

(A) The meaning of the terms "battery" and "extreme cruelty"; and

(B) The standards and methods to be used for determining whether a substantial connection exists between battery or cruelty suffered and an individual's need for benefits under a specific Federal, State or local program.

(5) Until such time as specific guidance is issued by the Attorney General in accordance with (4) above, the alien's statement, taken in the form of an affidavit, shall be accepted as documentation that the alien or the alien's child is subject to battery or extreme cruelty and the alien and the child(ren) shall be eligible for assistance.

10:90-2.11 WFNJ TANF/GA residency requirements

(a) WFNJ/TANF residency requirements are as follows:

1. The law requires that an applicant for or recipient of WFNJ/TANF assistance shall reside in New Jersey. Any person who responds affirmatively to the question on the application "Do you plan to continue living in New Jersey?" fulfills this requirement. The requirement is also satisfied when the person resides in the State having entered with a job commitment or is seeking employment even if he/she is currently unemployed.

i. For those WFNJ/TANF applicants/recipients who have resided in New Jersey for less than 12 consecutive months, see provisions at N.J.A.C. 10:90-3.1(d).

(b) WFNJ/GA residency requirements are as follows:

1. A resident of a municipality is a person who maintains a permanent customary home in the municipality, or a person who is in the municipality with intention to remain. No time intervals are relevant so long as the home is not established for a temporary purpose such as for a visit or vacation. A resident may live in his or her own home, a rented home or apartment, the home of a friend or relative, in a residential health care facility or boarding home, homeless shelter or in a long-term care facility.

2. Nonresidents/transients are persons in a municipality who may not intend to remain in that municipality and who are not residents of long-term care facilities who shall, if otherwise eligible, be granted assistance until arrangements can be made to return them to their customary place of residence.

i. For any person in a municipality who is away from the municipality of his or her customary home and wishes to return but cannot, because of lack of funds, the agency shall grant sufficient funds to allow the individual to travel to his or her own municipality or to the nearest place at which it has been confirmed that the individual's needs may be met. Travel costs shall be estimated or ascertained, as appropriate, according to the least expensive method of travel which is appropriate. The travel grant shall be sufficient to allow payment for the fare and such food, clothing, or shelter as may be essential during the trip.

(1) When circumstances prevent an accurate determination as to whether an applicant would be otherwise eligible to receive WFNJ/GA the agency will evaluate the application according to the best information available.

(2) Assistance for travel purposes in any amount over \$100.00 shall be granted only with prior approval from the DFD.

3. College students are individuals age 18 or over who are attending school or college. They may be found eligible for WFNJ/GA only when all of the following conditions are present:

i. He or she is a resident of the municipality in which application is made, and such municipality is his or her acknowledged home on a year-round basis;

(1) An individual coming from another state for the purpose of attending school or college is not eligible for WFNJ/GA during the period he or she is attending school.

ii. He or she is eligible in accordance with the eligibility provisions of the WFNJ/GA program.

iii. He or she shall comply with the WFNJ work requirements.

iv. A college student shall not be eligible for WFNJ/GA while residing out-of-state in order to attend school.

10:90-2.12 County/municipal residence for identification

(a) Residence in a county or municipality is not an eligibility requirement. A county or municipality of residence is necessary to identify which county/municipal agency is legally responsible for receipt, registration and processing an application and for issuance of payment, but shall not preclude or limit the opportunity for any person residing in New Jersey to apply for and receive assistance without delay.

(b) Wherever a family is living shall be considered that family's county or municipal residence. When a recipient family, or any member thereof, goes to another county, municipality or state for the purpose of a temporary visit, that county, municipality or state shall not become their residence unless it is a permanent transfer and provisions at N.J.A.C. 10:90-2.13 apply.

(c) A public or private institution of custodial, curative or penal character shall not be considered an individual's customary residence.

10:90-2.13 Temporary absence from the State (WFNJ TANF/GA)

(a) The county/municipal agency may, with the approval of the DFD, continue assistance payments to recipients who leave the State under specified conditions. A recipient must notify the county/municipality when leaving the State for more than seven days. A recipient assistance unit may leave the State for up to a one month period with no resultant effect upon eligibility or payment. Special circumstances may allow for an extension of benefits beyond the one month time frame but such an extension must be approved by the DFD.

(b) Upon establishment of the fact that the recipient assistance unit still considers its permanent residence to be New Jersey and that it plans to return thereto, continuation of assistance may be granted for the following reason(s):

1. Ill health;
2. Inability to travel of one or more members;
3. Mental or physical welfare;
4. Family responsibility (for example, settling affairs of deceased).

(c) Assistance shall not be continued for a recipient assistance unit which leaves New Jersey when there has been no information provided to the county/municipal agency establishing that the absence is purely temporary.

(d) Whenever a recipient assistance unit wishes to leave New Jersey either to establish a permanent place of abode or for a temporary visit, he or she shall be advised of the effects of this plan on their eligibility for continued assistance, and on the amount of assistance, if any, for which he or she may continue to be eligible during a temporary absence.

(e) The county/municipal agency shall maintain an up-to-date record of all cases of recipients approved to receive assistance while out of the State.

(f) Recipients who are receiving assistance out-of-state shall be afforded the same full advance notice including information about their right to a fair hearing in accordance with present policy regarding termination, reduction or suspension applicable in WFNJ. A copy of any such notice shall be sent to any out-of-state agency with which there has been communication regarding the case.

10:90-2.14 Responsibility of a parent to report temporary absence of a child from the home

(a) Eligibility for WFNJ/TANF may exist during the absence of a child from the home under the circumstances described in N.J.A.C. 10:90-2.15 and 2.16.

1. A parent or needy caretaker relative who fails to notify the county agency of the absence of the minor child from the home by the end of the five day period that begins with the date that it becomes clear to the parent or caretaker relative that the minor child will be absent for more than 180 consecutive days shall be ineligible for benefits for a period of three months.

i. The period of 90 days ineligibility for benefits shall begin on the first day of the month following the month in which the county agency becomes aware of the recipient's failure to notify the agency of the child's absence.

10:90-2.15 Child or parent in an institution

(a) When a child who would be otherwise eligible for WFNJ is out of the home due to voluntary/involuntary placement in an institution, he or she shall be recognized as a member of the assistance unit so long as it is anticipated that he or she will return home within one year from the date of the placement. State only funds shall be used after the minor child has been absent from the home for more than 180 consecutive days.

1. A child whose placement is specified for a period longer than one year shall not be eligible during the entire period of placement.

2. Placement for an unspecified or indeterminate period shall be construed to be for less than one year. Should such period extend beyond one year, the child shall be deleted from the eligible unit at the end of the year.

3. In the case of a new application, eligibility of an institutionalized child shall be based upon the specified length of the placement starting from the date the placement began.

(b) The term "parent" as used in (c) below includes both parents and parent-persons (see N.J.A.C. 10:90-2.7(a)3).

(c) Rules concerning a parent in an institution are:

1. Under WFNJ, when a parent is absent for diagnostic treatment or care and, even though hospitalized, is able to retain responsibility for supervising a plan for adequate care and control of his or her child(ren), eligibility shall continue so long as necessary to complete recovery but not to exceed 90 days.

i. When it appears that the absence will continue for more than 90 days, the case shall be reevaluated.

10:90-2.16 Absence for reasons other than institutionalization

(a) Temporary absence of a child which has not lasted more than 30 consecutive days does not affect eligibility. When the absence of a child lasts longer than 30 days, or it appears that an absence will last longer than 30 days, the county agency shall review the situation and take appropriate action.

1. If it is found that the parent or parent person lacks or will lack both physical custody and responsibility for day-to-day care of the child and the situation is likely to continue for more than 90 days, the child is no longer eligible for assistance. In situations in which the whereabouts of the child is unknown, or the parent or parent-person is precluded from contact, or the time period is otherwise indefinite, the child is no longer eligible for assistance.

2. If it is found there is reasonable expectation that the child will return to the home within 90 days, the child remains eligible.

3. The child remains eligible during the time that the above review is in process, but not longer than 90 days.

4. In unusual situations involving particular hardship, the county agency may consult with the DFD regarding the continuing eligibility of the child.

5. A child is considered temporarily absent from the home and regarded as an eligible member of the assistance unit if he or she is receiving vocational training at a residential Job Corps Center which permits him or her to return home for weekends.

i. A child who is receiving training at one of the three National Job Corps Centers located in Kentucky, Indiana, and Utah is to be considered permanently absent from the home and shall not be considered a member of the eligible assistance unit for WFNJ eligibility purposes.

(b) Regarding the parent or parent-person, temporary absence of not more than 30 consecutive days for whatever reason will not affect eligibility provided that adequate care and supervision of the child(ren) has been arranged in advance. When necessary, arrangements will be made by the county agency regarding issuance of the grant.

1. The county agency shall obtain approval from the DFD for continuing eligibility in unusual situations of temporary absence of a parent or parent-person which lasts more than 30 consecutive days.

10:90-2.17 Parent-minor provisions

(a) Parent-minors (applicants/recipients who are less than 18 years of age, never married, are the natural parents of the dependent child and are caring for the dependent child), shall be required, as a condition of eligibility for benefits for

the applicant or recipient and the applicant's or recipient's dependent child, to:

1. Reside in a home maintained by, and have the benefits paid to the applicant's or recipient's parent, legal guardian, or other adult relative; and
2. Regularly attend a high school or equivalency program of study; or
3. Engage in a work activity if the applicant or recipient has completed secondary education.

(b) If living with the parent, legal guardian, or other adult relative is determined unsuitable for the parent-minor because of the good cause reasons listed in (c) below, then the county agency shall refer the parent-minor to an alternate adult-supervised supportive living arrangement.

(c) Good cause for locating an alternative living arrangement for the parent-minor may exist if, during the application or eligibility process, as appropriate, the county agency determines that the parent, legal guardian or other adult relative with whom the applicant or recipient would otherwise be required to reside in order to be eligible for benefits:

1. Refuses or is unable to allow the applicant/recipient, or that person's dependent child, to reside in that adult's home;
2. Poses a threat to the emotional health or physical safety of the applicant/recipient or that person's dependent child;
3. Has exhibited neglect with respect to the needs of the applicant/recipient or the applicant/recipient's dependent child, or poses a risk of doing so;
4. Has abused the applicant or recipient, or the applicant's or recipient's dependent child, or poses a risk of doing so.

(d) If the parent-minor recipient is at least 17 years of age and has successfully resided in an independent living arrangement prior to February 1, 1997 with no previous incident of homelessness, such parent-minors may be allowed to continue living in an independent living arrangement subject to the following conditions:

1. The parent-minor shall name a responsible adult as a protective payee;
2. If the parent-minor cannot identify a responsible adult as the protective payee, he or she will have the choice of residing in an alternate adult-supervised living arrangement designated by the DFD or be ineligible for assistance. If at any time during the eligibility period, the parent-minor has not fully cooperated with his or her protective payee, the case manager or the representative of the entity designated by the DFD, he or she will be required to move his or her residence to an alternate adult-supervised living arrangement designated by the DFD or lose eligibility for cash assistance;

3. The parent-minor shall fully cooperate with a series of regular home visitations which will be completed by a representative of the entity designated by the DFD; and,

4. The parent-minor must remain enrolled in high school or an approved GED program.

(e) An applicant or recipient may be exempt from regularly attending high school or an equivalency program of study if, based upon an assessment of the person's ability and aptitude, it is determined that the applicant or recipient lacks a reasonable prospect of being able to successfully complete the academic requirements of a high school or equivalency program of study. The individual shall be required to participate in a State-approved alternative educational or training program authorized by the Department of Human Services.

(f) When a parent-minor(s) and the parent-minor's child are residing with the parent-minor's natural or adoptive parent(s), income deeming rules apply to determining the eligibility of the parent-minor (see N.J.A.C. 10:90-3.16).

(g) When a parent-minor(s) and the parent-minor's child reside with an adult relative other than their natural/adoptive parent(s), or as a separate household, in accordance with (d) above, the parent-minor's natural or adoptive parents shall be subject to the same income deeming provisions noted at N.J.A.C. 10:90-3.16

(h) When a parent-minor and his or her child(ren) are living in the home of the parent-minor's natural or adoptive parents, or relatives who qualify as parent-person(s) of the parent-minor, and such parent(s) or parent-persons are themselves eligible for cash assistance, the eligible family shall consist of the parent-minor, the parent-minor's child, the parent-minor's parent(s) and the parent-minor's brothers and sisters (see N.J.A.C. 10:90-2.7).

10:90-2.18 Family cap provision for WFNJ/TANF

(a) Adult WFNJ/TANF recipient parents shall not be entitled to receive incrementally increased WFNJ cash benefits solely because of the birth of an additional child(ren). Although the family does not receive additional cash assistance, a child(ren) subject to this family cap provision is/are considered a member of the assistance unit for all purposes including, but not limited to, the existing cash assistance benefit, child support, medical assistance and food stamp benefits provided to the assistance unit.

1. Adult recipients who were never previously subject to the family cap provision who then give birth to an additional child(ren) 10 or more months after the date of their application for assistance shall not receive an increase in their cash assistance benefits due to the birth of such an additional child(ren).

2. Adult recipients who had been subject to the family cap provisions under the prior AFDC program and who have been receiving cash assistance benefits either under the former AFDC program and/or under WFNJ within 10 consecutive calendar months immediately preceding the birth of a child shall not receive an increase in their cash assistance benefits as a result of the birth of such an additional child. This 10 month ineligibility timeframe includes any periods of ineligibility or case closure, either initiated on the part of the recipient or imposed by the county agency, including the post-WFNJ benefit period.

3. The provisions of this section shall not apply to any individual in an assistance unit with dependent children who gives birth to a child in less than 10 months after applying for and receiving WFNJ cash assistance benefits.

4. The provisions of this section shall not apply to the birth of a child that occurs as a result of domestic violence, rape or incest.

5. Families subject to the family cap provision may earn back an increase in their grant amount if they become employed. In such cases, the following shall apply:

i. The total countable income shall be compared for eligibility purposes to the appropriate assistance unit size including the child who does not receive cash assistance due to the family cap, using Schedule I (maximum allowable income levels) in N.J.A.C. 10:90-3.3;

ii. The disregards as specified in N.J.A.C. 10:90-3.8 shall be applied for the monthly earned income of each employed person in the assistance unit;

iii. After application of the earned income disregards, the total countable income shall be subtracted from Schedule II (maximum benefit payment levels) at N.J.A.C. 10:90-3.3, from the appropriate benefit payment level for the appropriate assistance unit size, including the child who did not receive cash assistance due to the family cap provisions in (a) above, to determine the assistance payment.

6. Any child subject to the family cap provisions listed in (a) above shall be included in the assistance unit for initial eligibility determination purposes.

7. The 10-month ineligibility timeframe for increased cash assistance due to the birth of an additional child(ren) specified in (a) above shall be binding upon any family for any subsequent reapplications or reopenings of the case and a family shall not be entitled to an increased cash benefit for the birth of any child(ren) until such time as 8 below applies.

i. Any child included in the WFNJ assistance unit who subsequently becomes a parent-minor and either remains in the eligible unit of the parent or caretaker relative or resides in an adult-supervised setting, shall be permitted to receive WFNJ cash assistance benefits

for that parent-minor's first newborn child only. The 10 month ineligibility timeframe becomes effective for any subsequent children born to the parent-minor.

8. When an adult parent(s) reapplies for WFNJ benefits and no adult member of the assistance unit has been in receipt of WFNJ benefits for a minimum of 12 consecutive months immediately preceding the date of re-application, the family is eligible for a new 10-month grace period from the date of reapplication. In addition, any child(ren) who did not receive cash assistance due to the family cap provisions listed in (a) above shall now be included in the assistance unit for cash assistance purposes.

i. When a WFNJ family becomes ineligible for WFNJ for either of the two reasons cited at (1) or (2) below, remains employed for a minimum of 90 days, and subsequently reapplies for WFNJ prior to the expiration of the 12 consecutive month period noted in 8 above due to the loss of employment through no fault of their own, any child(ren) previously subject to the family cap in accordance with 8 above shall now be included in the assistance 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 be subject to the family cap provisions and shall be included in the assistance unit for all purposes except the determination of the cash assistance grant.

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

(2) Increased hours of employment.

9. Members of the control group under the previous program are entitled to a 10 month grace period beginning October 1, 1997.

10:90-2.19 Refusal to cooperate with Quality Assurance reviews

An adult assistance unit member shall be determined ineligible for cash assistance if he/she refuses to cooperate in a State Quality Assurance review. If an adult assistance unit member is deleted for refusal to cooperate, without good cause, with a Quality Assurance review, such an individual shall be removed from the assistance unit until such time as the individual cooperates with the review.

SUBCHAPTER 3. FINANCIAL ELIGIBILITY— INCOME, RESOURCES, BENEFITS

10:90-3.1 General financial eligibility provisions

(a) Benefits for recipients of WFNJ/TANF and WFNJ/GA shall be determined according to standards of countable income (earned and unearned), and countable

resources. These standards shall take into account, for the determination of eligibility and provision of benefits, all income and resources of all persons in an assistance unit of which the applicant or recipient is a member, including any income deemed to the assistance unit members as a result of deeming from parents and sponsors.

(b) Initial financial eligibility for WFNJ benefits shall be determined for assistance units applying as a new applicant, reapplicant or reopened case by comparing the total countable income with the maximum income allowed for the appropriate unit size in accordance with Schedule I at N.J.A.C. 10:90-3.3 for WFNJ/TANF and Schedule III at N.J.A.C. 10:90-3.5 for WFNJ/GA employable single adults and couples without dependent children. If the assistance unit has income equal to or less than the maximum allowable income level, then financial eligibility exists.

1. There is no separate initial income eligibility test for WFNJ/GA unemployable single adults and couples without dependent children; instead, the total countable income of the WFNJ/GA unemployable assistance unit shall be compared to the unemployable maximum benefit payment level for the appropriate unit size in accordance with Schedule V at N.J.A.C. 10:90-3.6. If the assistance unit has income equal to or less than the maximum benefit payment level, then WFNJ/GA initial financial eligibility exists.

(c) Once initial financial eligibility is determined, as long as the total countable income of a WFNJ/TANF or WFNJ/GA assistance unit (with benefit of the appropriate disregards at N.J.A.C. 10:90-3.8 for earned income) is equal to or is less than the maximum benefit payment level for the appropriate eligible assistance unit size in accordance with Schedule II at N.J.A.C. 10:90-3.3, Schedule IV at N.J.A.C. 10:90-3.5 or Schedule V at N.J.A.C. 10:90-3.6, as appropriate, financial eligibility shall exist until such income exceeds the maximum benefit payment level for the appropriate unit size.

(d) For WFNJ/TANF only, a new eligible applicant/recipient who has resided in New Jersey for less than 12 consecutive months shall be eligible to receive cash assistance benefits in the amount that the recipient would have received from the recipient's prior state of residence if that amount is less than the cash assistance benefits provided under the WFNJ/TANF program. This limitation on cash assistance benefits shall apply until the recipient has resided in New Jersey for 12 consecutive months.

1. The limitation on cash assistance with regard to the 12-month residency requirement in (d) above shall be waived in accordance with N.J.A.C. 10:90-2.6, for individuals who have fled their prior state of residence as a result of domestic violence.

10:90-3.2 Determining initial financial eligibility for WFNJ/TANF, assistance units with dependent children

(a) In order to determine initial financial eligibility for assistance units applying for WFNJ/TANF as a new applicant, reapplicant or reopened case, all countable income available to the assistance unit shall be considered and compared to the initial maximum allowable income levels for the appropriate eligible assistance unit size in Schedule I at N.J.A.C. 10:90-3.3. If the assistance unit has income equal to or less than the initial maximum allowable income level for the appropriate unit size, then WFNJ/TANF initial financial eligibility exists.

(b) WFNJ/TANF initial maximum allowable financial income eligibility levels are based on 150 percent of the maximum benefit payment levels (provided within the limit of funds appropriated by the Legislature) for the appropriate assistance unit size in Schedule II at N.J.A.C. 10:90-3.3.

10:90-3.3 WFNJ/TANF-initial allowable maximum income and maximum benefit payment levels (Schedules I and II)

(a) Schedule I below identifies the WFNJ/TANF initial maximum allowable income eligibility levels for the appropriate assistance unit size that shall be used for new applicant, reapplicant and reopened cases to determine initial financial eligibility for families with dependent children.

(b) Schedule II below identifies the WFNJ/TANF maximum allowable benefit payment levels for the appropriate assistance unit size that shall be used for families with dependent children. As long as the assistance unit's countable income is equal to or less than the applicable benefit level, WFNJ/TANF financial eligibility exists. When the total countable income exceeds the applicable benefit level, the assistance unit is no longer eligible for WFNJ/TANF benefits.

WFNJ/TANF Schedules I and II

WFNJ/TANF Initial Maximum Allowable Income Levels and Maximum Benefit Payment Levels Families with Dependent Children

Schedule I Initial Maximum Allowable Income Levels	Number in Assistance Unit	Schedule II Maximum Benefit Payment Levels
\$ 243	1	\$162
483	2	322
636	3	424
732	4	488
828	5	552
924	6	616
1,015	7	677
1,092	8	728
Add \$75 for each additional person	More than 8	Add \$50 for each additional person

10:90-3.4 Determining initial financial eligibility for employable WFNJ/GA assistance units

(a) In order to determine initial financial eligibility for assistance units composed of employable single adults or couples without dependent children, who are applying for WFNJ/GA as a new applicant, reapplicant or reopened case, all countable income available to the assistance unit shall be considered and compared to the initial maximum allowable income levels for the appropriate eligible assistance unit size in Schedule III at N.J.A.C. 10:90-3.5. If the assistance unit has income equal to or less than the initial maximum allowable income level for the appropriate unit size, then WFNJ/GA initial financial eligibility exists.

(b) WFNJ/GA initial maximum allowable financial income eligibility levels are based on 150 percent of the maximum benefit payment levels (provided within the limit of funds appropriated by the Legislature) for the appropriate assistance unit size in Schedule IV at N.J.A.C. 10:90-3.5.

1. When an eligible WFNJ/GA assistance unit is composed of a couple without dependent children and at least one individual is employable, Schedule III shall be used to determine initial financial eligibility.

10:90-3.5 WFNJ/GA employable, initial allowable maximum income and maximum benefit levels (Schedules III and IV)

(a) Schedule III below identifies the WFNJ/GA initial maximum allowable income eligibility levels for the appropriate assistance unit size that shall be used for new applicant, reapplicant and reopened cases to determine initial financial eligibility for employable single adults and couples without dependent children.

(b) Schedule IV below identifies the WFNJ/GA maximum allowable benefit payment levels for the appropriate assistance unit size that shall be used for employable single adults and couples without dependent children. As long as the assistance unit's countable income is equal to or less than the applicable benefit level, WFNJ/GA financial eligibility exists. When the countable income exceeds the applicable benefit level, the assistance unit is no longer eligible for WFNJ/GA benefits.

WFNJ/GA Employable Assistance Units Schedules III and IV
WFNJ/GA Initial Maximum Allowable Income Levels and Maximum Benefit Payment Levels for Employable Single Adults and Couples without Dependent Children

Schedule III Employable Maximum Allowable	Number in Assistance	Schedule IV WFNJ/GA Employable Maximum Benefit
<u>Income Levels</u>	<u>Unit</u>	<u>Payment Levels</u>
\$210	1	\$140
290	2	193
366	3	244
420	4	280
480	5	320
540	6	360

Schedule III Employable Maximum Allowable	Number in Assistance	Schedule IV WFNJ/GA Employable Maximum Benefit
<u>Income Levels</u>	<u>Unit</u>	<u>Payment Levels</u>
597	7	398
656	8	437
Add \$72 for each additional person	More than 8	Add \$32 for each additional person

Administrative correction.
See: 29 N.J.R. 3729(a).

In (b), in table, amended income level for 1 in assistance unit.

10:90-3.6 Eligibility/maximum benefit payment levels for WFNJ/GA unemployable single adults and couples without dependent children (Schedule V)

(a) There is no separate initial income eligibility test for WFNJ/GA unemployable single adults and couples without dependent children. Instead, for unemployable assistance units who apply as a new applicant, reapplicant or reopened case, the total countable income of the WFNJ/GA shall be compared to the unemployable maximum benefit payment level in Schedule V below. If the assistance unit has income equal to or less than the maximum benefit payment level for the appropriate unit size, then initial financial eligibility exists; and, financial eligibility shall continue to exist as long as the total countable income is equal to or less than the applicable benefit payment level. When the income exceeds the benefit payment level, the assistance unit is no longer financially eligible for WFNJ/GA benefits.

WFNJ/GA Unemployable Assistance Units Schedule V

WFNJ/GA Maximum Allowable Benefit Payment Levels for Unemployable Single Adults and Couples without Dependent Children

Number in Assistance <u>Unit</u>	WFNJ/GA Unemployable Maximum Benefit <u>Payment Levels</u>
1	\$210
2	\$289
3	\$366
4	\$420
5	\$480
6	\$540
7	\$597
8	\$655
More than 8	Add \$48.00 Each Person

Administrative correction.
See: 29 N.J.R. 3729(a).

10:90-3.7 Computing prorated cash assistance benefits for WFNJ TANE/GA recipients

(a) The county or municipal agency shall prorate the initial cash assistance benefit or any other cash benefit that is issued for less than one month. The prorated benefit shall be determined by counting all income which has been received or which will be received in the month of application, and applying the appropriate disregards (see N.J.A.C. 10:90-3.8) to the earned income. The countable income shall be subtracted from the appropriate monthly maximum benefit payment level (Schedule II, IV or V located at

N.J.A.C. 10:90-3.3, 3.5 and 3.6, as appropriate) and the result prorated by multiplying that amount by the factor appropriate for the date of application in the proration table below. If the result is not a whole dollar amount, the amount shall be rounded to the next lower whole dollar.

1. The effective date of the initial cash assistance benefit shall be the date of the application if the client was eligible on that date. If the client was found eligible on any other date, the initial grant shall be the date eligibility was established.

Proration Table for Initial/Partial Assistance Payments

<u>Date of Application</u>	<u>Multiplication Factor</u>	<u>Date of Application</u>	<u>Multiplication Factor</u>
1	1.000	16	.5000
2	.9666	17	.4666
3	.9333	18	.4333
4	.9000	19	.4000
5	.8666	20	.3666
6	.8333	21	.3333
7	.8000	22	.3000
8	.7666	23	.2666
9	.7333	24	.2333
10	.7000	25	.2000
11	.6666	26	.1666
12	.6333	27	.1333
13	.6000	28	.1000
14	.5666	29	.0666
15	.5333	30 and 31	.0333

10:90-3.8 Computing the WFNJ TANF/GA monthly cash benefit using disregards for earned income

(a) In computing the monthly cash assistance benefit for eligible new applicants who are employed, 50 percent of the gross earned income shall be disregarded for the first month and for each continuous month of employment thereafter.

(b) In computing the monthly cash assistance benefit for current public assistance recipients who are employed at time of conversion, July 1, 1997, from the AFDC and GA programs to WFNJ, 50 percent of the gross earned income shall be disregarded and continue to be disregarded for each continuous month of employment thereafter.

(c) In computing the cash assistance benefit for WFNJ recipients who are unemployed and subsequently obtain employment, 100 percent of the gross earned income shall be disregarded for the first full month in which the earned income would be counted; and, 50 percent of the gross earned income shall be disregarded for each continuous month of employment thereafter.

(d) In computing the cash assistance benefit for recipients who lose their employment through no fault of their own and subsequently become reemployed, the 100 percent disregard may be applied again for the first full month of employment only once every 12 months; otherwise, the 50 percent disregard shall be applied for each continuous month of employment.

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

(f) Income shall be considered available when with the exception of income from self employment, the income becomes payable but is not received by the individual due to his or her preference to voluntarily defer receipt of the income.

(g) In situations where a WFNJ applicant's State or Federal benefit such as RSDI has been reduced due to an overpayment, the full amount of such entitled State or Federal benefit shall be counted, rather than the reduced amount, when determining the cash assistance benefit.

1. In situations where a WFNJ recipient's State or Federal full benefit was used to calculate the grant (i.e., the grant prior to recovery for overpayment of such benefit), then the reduced benefit shall be used to calculate future cash assistance grants until such time as the reduction is no longer in place.

(h) If gross income from employment is reduced due to garnishment of wages for a loan, lien or repayment of other outstanding debts other than child or spousal support, gross earned income shall be countable.

1. Child support and spousal support payments paid by any member of a WFNJ household assistance unit shall be disregarded in the determination of initial eligibility and calculation of the assistance payment.

(i) If an assistance unit is eligible for benefits and in receipt of child support, up to \$50.00 per month based on the amount of current child support received for that month, shall be disregarded in the determination of maximum initial income eligibility and the cash assistance benefit computation. If the amount of child support received is less than \$50.00, the assistance unit shall receive the lesser amount. If the amount of child support received is \$50.00 or more, the assistance unit shall receive \$50.00. Thus, the total amount of child support disregarded shall not exceed \$50.00 per month per eligible assistance unit.

(j) When an individual is not included in the eligible assistance unit because of a sanction for failure to or refusal to comply with a WFNJ program requirement or is disqualified for an intentional program violation, and such individual has earned income, the gross amount of earned income shall be considered available, without application of the earned income disregards, to the eligible assistance unit (see N.J.A.C. 10:90-3.12).

(k) In the case of an overpayment caused by the recipient's failure, without good cause, to report earned income on a timely basis, the amount of the overpayment shall be calculated without application of the earned income disregards (see N.J.A.C. 10:90-3.21).

10:90-3.9 Income—WFNJ TANF/GA

(a) Income is either countable or exempt. The provisions pertaining to exempt income may be found at N.J.A.C. 10:90-3.19.



(b) Income refers to earned or unearned and means, but is not limited to, child support, commissions, salaries, self-employed earnings, and spousal support payments, interest and dividend earnings, wages, receipts, unemployment compensation, any legal or equitable interest or entitlement owed that was acquired by a cause of action, suit, claim or counterclaim, insurance benefits, temporary disability claims, estate income, trusts, federal income tax refunds, state income tax refunds, homestead rebates, inheritances, lottery prizes, casino and racetrack winnings, annuities, retirement benefits, veterans' benefits, union benefits, or other sources that may be construed or defined as income.

(c) Earned income refers to gross income received by an individual through the receipt of wages, tips, salaries or commissions or receipt of income from self-employment. It includes earnings over a period of time for which settlement is made in one payment, for example, as in the sale of farm crops.

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

(d) 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 shall not be considered 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.

2. Assistance shall not be provided to subsidize a failing business.

i. A business which is already established (that is, in operation for at least 24 months) and which shows only marginal profit, either constant or intermittent, shall be considered to be failing if the profit, averaged over the preceding 12 months, is less than the State minimum wage multiplied by 35 hours per week.

ii. For a new business, a period not to exceed 12 months from the start of the new business shall be considered adequate to determine its potential for self-support. In situations where, in the judgment of the county or municipal agency, additional time would enable the business to show a profit, the period may be extended for up to 12 additional months.

(e) Unearned income includes, but is not limited to, returns from capital investments such as dividends and interest; benefits and pensions; annuities; compensation payments; recurring contributions; temporary disability insurance payments; temporary worker's compensation payments; unemployment insurance benefits; and, worker's compensation received by a CWEP or AWEP participant or by a dependent, as a result of a participant's death, for a permanent disability sustained during a CWEP or AWEP activity.

(f) Lump sum income is addressed at N.J.A.C. 10:90-3.18.

10:90-3.10 Resources—WFNJ TANF/GA

(a) Resources are either countable or exempt. The provisions pertaining to exempt resources may be found at N.J.A.C. 10:90-3.20.

(b) Resources are defined as all real and personal property, including bank accounts, which is within the control of one or more members of each eligible assistance unit, or to which the member(s) may have a valid claim, and certain benefits and other contributions of support which may become available to each eligible assistance unit. Available resources include cash and other forms of income immediately obtainable to meet the needs of each eligible assistance unit.

1. For checking and saving accounts in which the names of the owners are stated in the conjunctive ("and" accounts), the eligible assistance unit member shall be presumed to possess the funds in proportion to the number of owners listed on the account. Such presumption is rebuttable and shall not apply if the eligible assistance unit member and/or the other owner(s) demonstrate to the county or municipal agency that actual ownership (based on the contributions by each of the parties to the sums on deposit) of the funds is in a different proportion.

2. For checking and saving accounts in which the names of the owners are stated in the disjunctive ("or" accounts), the eligible assistance unit member shall be presumed to possess all the funds therein regardless of their source. Such presumption is rebuttable and shall not apply if the eligible assistance unit member and/or the other owner(s) demonstrate to the county or municipal agency that ownership of the funds is in a different proportion, predicated on contributions by each party to the sums on deposit.

(c) When ownership of nonexempt real property is the only reason for the ineligibility of an otherwise eligible assistance unit, the assistance unit may receive assistance benefits under the following terms and conditions:

1. Liquidation of the real property shall be undertaken and completed within nine months. An extension beyond the nine month period may be permitted, subject to the approval of the DFD, if good cause exists and is recognized by the DFD. Otherwise, at the end of nine months, granting of assistance benefits under these provisions shall no longer be authorized.

2. The signer(s) of the assistance application shall sign a written agreement with the county or municipal agency which describes a mutually acceptable plan of liquidation which includes a statement of market value of the property. The plan may be revised as necessary by mutual agreement. If an appraisal is found necessary in order to reach agreement, the county or municipal agency may advance the cost of the appraisal from the administrative account. Such cost is subject to repayment or recovery (see (a)4 below).

3. The owner(s) of the real property shall, in accordance with the written plan of liquidation, make continuous good faith efforts to liquidate the property at market value. Any breach in the good faith efforts, as determined by the county or municipal agency, ends the authorization of all assistance benefits under these provisions.

4. In accordance with the agreement to repay, upon liquidation of the real property, the former owner(s) of the real property shall repay to the county or municipal agency either the amount of all assistance granted or the net amount received from the liquidation, whichever is less. Any funds remaining to the former owners after repayment constitute a resource for regular eligibility determination. Beginning April 2, 1997, any period for which WFNJ assistance has been repaid in full shall not count toward a recipient's 60-month cumulative time limit on receipt of assistance.

(d) Rules concerning the liquidation of all debts, claims, interests, settlements, and trust funds are as follow:

1. Members of each eligible assistance unit shall take all necessary and reasonable action to avail themselves of funds for support from others who owe or may owe money to them or who are holding funds for them. Any funds made available by such action (except funds from liquidation of a nonexempt resource) are to be considered as income to each eligible assistance unit.

2. Any failure or refusal by any person to take required action or to cooperate with the county or municipal agency in liquidation efforts renders the entire assistance unit ineligible for assistance for as long as the failure or refusal continues.

3. In situations customarily processed under contingent fee arrangements with private counsel, such as liability matters, an eligible assistance unit shall be required to undertake action by that method or by an alternative method acceptable to the county or municipal agency.

4. When a trust fund exists for a member of the eligible assistance unit (with the exception of any funds placed in trust for a minor child to make the minor child whole as a result of an injury as provided in N.J.A.C. 10:90-7.8), the county or municipal agency shall determine whether or not the funds are currently accessible and if accessible, such funds shall be considered in determining eligibility.

i. When a trust fund is not currently accessible and it exists at the time of application, the applicant must, as a condition of eligibility, make a bona fide presentation of a petition to the appropriate court for release of the funds for current and future support. The county or municipal agency shall assist the applicant if necessary.

ii. When a trust fund is not currently accessible and came into being during the term of the assistance case, the county or municipal agency shall present a petition to the appropriate court for release of funds for current and future support. The recipient must, as a condition of continuing eligibility, provide whatever cooperation may be necessary in the presentation of the petition.

(e) A voluntary assignment or transfer of income or resources for the purpose of qualifying for WFNJ TANF/GA benefits shall render the applicant/recipient and the applicant/recipient assistance unit members ineligible for a period of up to one year (see Disqualification Period Chart at (e)4 below) from the date of discovery of the transfer. This disqualification period shall be applied if the resources are transferred knowingly in the one year period prior to application or if an assistance unit acquires assets after being certified for benefits and then transfers such assets knowingly in order to prevent the assistance unit from exceeding the maximum resource limit.

1. Eligibility for WFNJ shall not be affected by the following transfers:

i. Resources which would not otherwise affect eligibility; for example, resources consisting of excluded personal property such as furniture or money that, when added to other nonexcluded household resources, total less than the allowable resource limit at the time of the transfer;

ii. Resources that are sold or traded at or near fair market value;

iii. Resources which are transferred between members of the same assistance unit (including excluded assistance unit individuals whose resources are being considered available to the assistance unit); or,

iv. Resources which are transferred for reasons other than qualifying or attempting to qualify for WFNJ benefits.

2. If the county or municipal agency does establish that an applicant has knowingly transferred resources for the purpose of qualifying or attempting to qualify for WFNJ benefits, the assistance unit shall be sent a notice of denial explaining the reason for and length of disqualification. The period of disqualification shall begin in the month of application.

3. If the county or municipal agency establishes a transfer of assets by a WFNJ recipient assistance unit (or by an assistance unit which had been certified for eligibility), a notice of adverse action explaining the reason for and length of disqualification shall be sent. The period of disqualification shall be made effective with the first cash assistance payment to be issued after the notice of adverse action period has expired, unless the assistance unit has requested a fair hearing and continued benefits.

4. The length of the disqualification period shall be based on the amount by which nonexempt transferred resources, when added to other countable resources, exceed the allowable limits. For example, if an assistance unit with \$1,750 in a bank account transferred ownership of a car worth \$10,000, \$250.00 of that transfer would be considered in determining the period of ineligibility because the first \$9,500 of the car's value is excluded and an additional \$250.00 of the transferred asset can be applied toward the \$2,000 resource limit.

i. The following chart, which has been aligned with the chart utilized in the Food Stamp program, shall be used to determine the period of disqualification when the transfer of nonexempt resources was for the purpose of qualifying for WFNJ.

Disqualification Period Chart

Amount in Excess of Resource Limit	Period of Assistance Unit Disqualification
\$0.01—\$249.99	1 month
250—999.99	3 months
1,000—2,999.99	6 months
3,000—4,999.99	9 months
5,000 and over	12 months

10:90-3.11 Determining the income of WFNJ TANF/GA assistance units

(a) All earned and unearned income shall be determined by using a prospective budgeting methodology. WFNJ eligibility and cash assistance benefit calculations shall be based on an estimate of the assistance unit's income, using income averaging and, other circumstances that will exist until the assistance unit reports a change in circumstance or at the time of case redetermination, whichever occurs first. The estimate of income is based on the assistance unit's and the agency's reasonable expectations and knowledge of current, past and future circumstances.

(b) For purposes of determining the assistance unit's financial eligibility and benefits, the county or municipal agency shall determine earnings by obtaining wage information for the four consecutive week period immediately preceding the date of application, redetermination or change in circumstance. Likewise, all unearned income received within this four week period is also determined. All earned and unearned income received within this four week period must be verified and documented in the case record, even if all

four weeks of income are not ultimately used to calculate the estimate.

(c) In order to maintain consistency in policy application between the WFNJ and Food Stamp (FS) programs, the county or municipal agency shall utilize the same income estimate for both the WFNJ application/redetermination period and the FS application/recertification period, whenever possible. Therefore, in those public assistance (PA)/FS cases where the food stamp calculation encompasses a five-paycheck (or a three paycheck month for bi-weekly income) month, county or municipal agencies are authorized to use that same method for WFNJ eligibility and cash assistance benefit. Documentation of the income estimate determination must be maintained in the case record.

1. Since the receipt of income by a WFNJ individual usually occurs weekly, bi-weekly, or on a semi-monthly basis, the county or municipal agency shall convert the averaged income amount to a gross monthly amount by multiplying the averaged income amount by the appropriate conversion factors as follows:

- i. Weekly amounts by 4.333;
- ii. Bi-weekly amounts by 2.167; and,
- iii. Semi-monthly amounts by two.

(d) In determining an estimate of income, the following procedures shall be used by the county or municipal agency:

1. Verify and document in the case record, all unearned income (through bank letters, statements, etc.) and earned income, (through wage stubs or documentation from the employer), received within the four week period specified in (b) above;

2. Determine, through review of the documentation, the case record and discussion with the client, if any of the income received is not expected to be representative of the future. For instance, the first pay check of new employment may not represent a full pay period; a missing week's income may represent a summer plant closing; or a larger check may represent nonrecurring overtime, all of which may not be anticipated to occur in the future. Non-representative income shall not be used in calculating the estimate. For example, the assistance unit receives regular weekly income but is missing one week's pay due to a plant closing for that week only. The three available amounts would be averaged to determine average weekly income and that average converted to monthly gross income as described in (c)1 above;

3. If income fluctuates to the extent that a four-week period is not expected to provide an appropriate income estimate until the next redetermination, the agency shall require the assistance unit to submit verified wage information for those months subsequent to the month of review, in order that the agency may recalculate the estimate. When income fluctuates dramatically, agencies shall rebudget the case as often as deemed necessary to ensure the most accurate income estimate and correct assistance payment;

i. When four consecutive weeks of income fluctuate but are representative of the assistance unit's anticipated fluctuation in income for future months, the agency shall average the income from the four-week period and project that gross income estimate for future months;

4. The final step shall be to average the income that has been determined to be representative of the eligible assistance unit's circumstances and to convert that average to a gross monthly income estimate amount by using the conversion factors set forth in (c)1 above. The estimate amount shall then be used to determine initial eligibility and benefit amount until the next redetermination or report of a change in circumstances.

(e) WFNJ assistance units shall be required to report any change in income and circumstances that could affect eligibility and the benefit amount as soon as possible to the county or municipal agency, but in no event later than 10 calendar days of the date the change happened. The agency shall initiate appropriate action on the reported change within 10 calendar days of receiving the report of the change, subject to timely and/or adequate notice.

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

2. A change in circumstances of the eligible assistance unit may result in an adjustment upward or downward in the amount of the cash assistance payment. Downward adjustments shall be subject to timely and adequate notice.

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

1. An assistance payment was incorrectly computed or not issued due to administrative error. Such supplemental payment(s) shall be considered as corrections to underpayments;

2. A change in circumstances occurred; or,

3. A new member was added to the eligible unit.

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

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

(a) Income of the spouse is considered available for the other spouse and income of a parent (natural or adoptive) is considered available for children under 18. If the spouse or parent is living with his or her spouse or children, respectively, income is considered available regardless of whether the spouse or natural or adoptive parent is noneligible or sanctioned.

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

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

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

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

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

Administrative correction.
See: 29 N.J.R. 3729(a).

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

(a) When a needy stepparent is married to a natural or adoptive WFNJ recipient parent and is not the parent of any of the WFNJ children, the stepparent shall be included as a member of the eligible assistance unit, with all needs recognized and his or her income considered in determining the adjusted allowance and the amount of the cash assistance benefit in accordance with all regulations in this manual.

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

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

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

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

(b) WFNJ eligibility shall not exist for any month if the total income exceeds 150 percent of the Federal Poverty Income Guidelines for the appropriate number of persons in the household. The household shall include the natural or adoptive parent, his or her children, the non-needy stepparent and the stepparent's children residing in the same household who are claimed or could be claimed by the stepparent as dependents for Federal personal income tax liability and who are not recipients of WFNJ or SSI benefits.

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

2. The gross income derived from the computation procedures in (b)1 above shall be compared to 150 percent of the Federal Poverty Income Guidelines. Provided the household's gross income does not exceed the amount for the appropriate household size, initial WFNJ eligibility shall be established for the children of the natural or adoptive parent (excluding children who are recipients of SSI benefits). If the household's gross income exceeds the applicable poverty level guideline amount, all members of the household shall be ineligible for WFNJ benefits.

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

ii. The grant for eligible children shall be:

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

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

(c) Countable income to the WFNJ eligible children shall be determined in accordance with the following procedures:

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

2. Any earned income of the WFNJ parent shall be reduced by the 50 percent disregard as specified at N.J.A.C. 10:90-3.8, and the result added to any unearned income received by that parent. The result of this calculation is further reduced by the payment benefit level amount for an eligible unit of one in Schedule II at N.J.A.C. 10:90-3.5.

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

4. The total countable income shall be deducted from the payment benefit level for the appropriate eligible unit size in Schedule II at N.J.A.C. 10:90-3.5, and the remainder shall be the WFNJ benefit payable for the eligible children.

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

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

(a) The income and resources of an alien's sponsor shall be deemed to be unearned income and resources of an alien applying for WFNJ for the first time after September 30, 1981, for a period of three years following the alien's entry into the United States. For purposes of deeming, a sponsor is an individual who executed an affidavit of support or similar agreement on behalf of an alien (who is not the child of the sponsor or the sponsor's spouse) as a condition of the alien's entry into the United States.

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

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

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

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

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

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

3. Un-sponsored family members are not ineligible if a sponsored alien fails to provide information concerning the sponsor (or sponsor's spouse if living with the sponsor). However, any income the un-sponsored family members actually receive from the sponsor must be reported and considered in determining their eligibility.

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

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

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

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

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

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

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

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

(e) The amount of resources of the sponsor (and of the sponsor's spouse if living with the sponsor) shall be determined in accordance with the provisions of this subchapter. The value of the sponsor's resources shall be reduced by \$2,000.00 and remaining amount shall be deemed available to the alien and counted in the determination of WFNJ eligibility and benefit payment level.

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

(g) Income and resources which are deemed to a sponsored alien shall not be considered in determining the need of other un-sponsored members of the alien's family except to the extent the income and resources are actually available. The sponsor's obligatory contribution shall not exceed the per capita share of the eligible unit's adjusted allowance for the alien(s) for whom the sponsor is liable.

(h) Any individual sponsor of an alien, and the alien, shall be jointly and severally liable for any overpayment of public assistance made to the alien during the three years after the alien's entry into the United States that was caused by the sponsor's failure to provide correct information under the provisions of this section, except as provided in (h)1 below.

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

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

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

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

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

2. Admitted as a refugee to the United States as a result of the application of the provisions of Section 207(c) (in effect after March 31, 1980) of the Immigration and Nationality Act;

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

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

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

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

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

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

(a) An adolescent parent is an individual under the age of 18 and who is himself or herself a parent of a dependent child.

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

this provision shall be in accordance with the following procedures.

1. Reduce the gross earned income (and net income from self-employment) of each employed parent by the 50 percent disregard as specified at N.J.A.C. 10:90-3.8.

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

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

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

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

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

1. Residential health care facility: When an individual who is in need of extensive personal services on a regular and continuous basis is purchasing a room and board living arrangement in a residential health care facility (licensed by the N.J. Department of Health and Senior Services for purposes other than the care or treatment of drug or alcohol abuse), the monthly assistance payment, including a personal allowance, shall not exceed the rate approved by the New Jersey Department of the Treasury, less any countable income. When a rate increase is approved, a public notice to that effect will be published in the New Jersey Register. Information about the current rate may also be obtained by contacting the DFD. However, the cost of purchasing such living arrangement shall not exceed the minimum amount which the establishment customarily charges to or for other guests not dependent on public assistance, for the same accommodations and/or services.

2. Group facilities and boarding homes: When an individual is purchasing room and board in a group facility or a boarding home (including a private home) other than a Residential Health Care Facility as in (a)1 above, or a center for treatment of drug or alcohol abuse as in (a)4 below, the total monthly benefit payment shall be the maximum benefit payment amount for a single adult as given in Schedule IV or Schedule V at N.J.A.C. 10:90-3.5 and 3.6, as appropriate, less any countable income.

i. The spouse of a boarding home operator when living in the same home is also considered a boarding home operator. Neither the spouse nor a child under age 18 of a boarding home operator may be considered a boarder there.

3. Long term care facilities: See N.J.A.C. 10:90-13 regarding care in nursing facilities.

4. Drug and alcohol treatment centers: When an individual is receiving room and board in a residential center for the treatment of drug or alcohol abuse, whether or not the center is licensed by the New Jersey Department of Health and Senior Services, the total allowance shall not exceed the amount to which the individual would be entitled as an eligible unit of one as given in Schedule IV or Schedule V at N.J.A.C. 10:90-3.5 and 3.6, as appropriate. Of that amount, \$25.00 shall be considered as an allowance for personal incidentals and the remainder as the room and board payment to the center. (Note: Licensure of the center by the New Jersey Department of Health and Senior Services as a medical institution will not affect the payment rate.)

10:90-3.18 Treatment of lump sum income WFNJ TANF/GA

(a) Lump sum income includes, but is not limited to, payments in the nature of a windfall such as inheritances, lottery, casino and racetrack winnings; RSDI, Railroad Retirement, Veterans and Worker's Compensation retroactive awards and personal injury awards.

1. Nonrecurring lump sum income will be subject to repayment of past assistance (including emergency assistance) in accordance with the agreement to repay; after the agreement to repay is satisfied, any remaining amount of the lump sum income shall be considered in determining the period of WFNJ ineligibility.

2. SSI payments shall not be subject to lump sum repayment rules for WFNJ/TANF recipients (see 2i below for WFNJ/GA recipients).

i. For WFNJ/GA recipients, retroactive SSI payments are subject to repayment in accordance with WFNJ/GA fiscal provisions at N.J.A.C. 10:90-14.

(b) The recipient shall notify the county or municipal agency within 10 calendar days of the receipt of a lump sum income.

(c) When a recipient receives nonrecurring earned or unearned lump sum income, the extent it is not earmarked and used for the purpose for which it was paid (for example, moneys for back medical bills resulting from accidents or injury, funeral and burial costs, replacement or repair of resources, and so forth), that income shall be used to repay assistance granted in accordance with the agreement to repay. After the agreement to repay is satisfied, any lump sum remaining will be added together with all other countable income received that month by the eligible assistance unit after application of the appropriate disregards in N.J.A.C. 10:90-3.8.

1. An allowance may be made to disregard a portion of the remaining lump sum money that may be spent to purchase items that are integral in promoting self-sufficiency, such as the purchase of a first vehicle (up to the resource allowed for such vehicle in these rules at N.J.A.C. 10:90-3.20), vehicle repairs or essential household items.

2. Effective April 2, 1997, if assistance payments (including emergency assistance) are repaid to a county or municipal agency, in accordance with the agreement to repay, the months of assistance for which cash payments were repaid shall not count toward a recipient's five year time limit on receipt of public assistance.

(d) When the total remaining lump sum income exceeds 200 percent of the WFNJ/TANF maximum payment level for the appropriate eligible assistance unit size as set forth in Schedule VI below, the assistance unit will be ineligible for WFNJ for the number of full months derived by dividing this total income by the payment level applicable to the eligible assistance unit size in Schedule VI.

1. Schedule VI shall also be used for alien sponsor-income deeming as set forth in N.J.A.C. 10:90-3.15.

WFNJ/TANF and WFNJ/GA Schedule VI

Number in Eligible Unit	200% of WFNJ/TANF Payment
1	\$324
2	644
3	848
4	976
5	1104
6	1232
7	1354
8	1456
More Than 8	Add \$100.00 Each Person

(e) For purposes of determining the period of ineligibility, the WFNJ assistance unit and any other individual (such as a stepparent) whose lump sum income caused the assistance unit's income to exceed the allowance standard, shall be included in such determination.

1. 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.

2. 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 county or municipal agency had knowledge of its receipt. The amount of overpayment for the period of ineligibility must be established and recovery made.

3. The period of ineligibility applies to each individual in the eligible assistance unit at the time of receipt of the lump sum nonrecurring income.

4. Once established, the period of ineligibility may be recalculated/reduced only if the lump sum income used to determine such period becomes unavailable to the eligible assistance unit for reasons beyond the control of the assistance unit members. It is the responsibility of the former eligible assistance unit 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. Acceptable reasons include but are not limited to those below:

i. Allegation of loss or theft of part or all of the lump sum, including circumstances where a member of the former eligible assistance unit has absconded with the funds.

(1) The former eligible assistance unit shall thoroughly substantiate an allegation of loss or theft of income and must provide the county or municipal agency 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 county agency shall reduce the amount of the original lump sum by the amount of the loss or theft.

ii. The former eligible assistance unit incurs and pays verifiable expenses due to an emergent situation, for which, had the assistance unit been eligible, emergency assistance would have been authorized under N.J.A.C. 10:90-6. Upon receipt of credible verification of those expenses, the county or municipal agency shall reduce the amount of the original lump sum.

iii. The assistance unit incurs, becomes responsible for, and pays medical expenses during the period of ineligibility.

iv. Other circumstances, with the provision of appropriate verification, as approved by the DFD.

10:90-3.19 Exempt income

(a) Exempt income is not considered in determining eligibility for assistance or in computing the amount of WFNJ cash assistance payments. In addition to the exempt resources set forth at N.J.A.C. 10:90-3.20, the following sources of income shall be exempt:

1. Up to the first \$50.00 of child support received;
2. Income tax refunds;
3. Homestead property tax rebates;
4. Earned income credit (EIC) payments;
5. Unearned income (including moneys to offset training expenses) received by a WFNJ dependent child through the Job Training Partnership Act (JTPA);
6. Earned income received through the JTPA by a WFNJ dependent child;

7. Allowance payments to offset expenses related to training received by any WFNJ recipient who is participating in the JTPA program;

8. The earned income of any middle or secondary school student in the eligible assistance unit;

9. Any grant, scholarship, student loan or other financial aid received by an eligible child or eligible adult who is a student, including funds received through college work study programs, so long as the eligible child or eligible adult continues to attend school and meets the conditions under which such moneys are granted and complies with required WFNJ work requirements at N.J.A.C. 10:90-4;

i. During any period for which a child or adult who is a student receives a grant, scholarship or student loan under a Federal, State or other public or private program, he or she shall not be entitled to any allowances for expenses incident to training which are otherwise provided for through student financial aid. In other situations allowances shall be provided in accordance with the supportive services provisions at N.J.A.C. 10:90-5.

10. SSI benefits for WFNJ/TANF only;

11. Income-in-kind or benefits received in the form of goods, services or via third party payments, rather than cash.

10:90-3.20 Exempt resources

(a) Exempt resources are not subject to any requirement for liquidation and are not considered in determining WFNJ eligibility or in determining the cash assistance benefit. In addition to the exempt income set forth at N.J.A.C. 10:90-3.19, the following resources shall be exempt for each assistance unit:

1. Benefits available through the WFNJ program which are over and above the cash assistance allowance, such as but not limited to, child care and transportation payments;

2. Aid/assistance from other agencies or organizations, whether public or private, as exempt from Federal and/or State law such as, but not limited to, Federal Emergency Management Assistance (FEMA), which supplements but does not supplant WFNJ benefits;

3. Up to a total of \$2,000 in resources (including savings);

i. An exception to the \$2,000 limit may be made for teen parents living in alternate adult supervised living arrangements only. For such teen parents, the full amount of special teen alternate living arrangement savings accounts and all interest and/or dividend earnings from such an account shall also be exempt.

4. One motor vehicle registered in the name of a member of the assistance unit, the fair market value of which does not exceed \$9,500.

i. The fair market value of a licensed vehicle shall be determined by the value of those vehicles as indicated by the "Average Wholesale Value" in the most recent edition of the Red Book, Official Used Car Valuations. The county or municipal agency shall not increase the basic value of a vehicle by adding the value of low mileage or other factors such as optional equipment. If a new vehicle is not listed in the Red Book, the county or municipal agency shall determine the wholesale value by some other means such as, but not limited to, contacting a car dealer that sells that make of a vehicle.

ii. If a vehicle is especially equipped with apparatus for the handicapped, the apparatus shall not increase the value of the vehicle. The Red Book value shall be assigned as if the vehicle were not so equipped.

iii. In assistance units with two adults or, one adult with a minor child who is at least 17 years old, a full time secondary student and employed, a second motor vehicle the fair market value of which does not exceed \$4,650, may be exempt, if such motor vehicle is essential to commute to work or training, or must be used to transport a handicapped individual.

5. Real property owned by an eligible assistance unit member(s) and used as a home by a member(s) of the eligible assistance unit, together with so much of the land on which the house stands as is reasonably necessary for the maintenance of the house;

i. The property may remain in exempt status during temporary absence of the entire assistance unit for a period up to four months, at which time the county or municipal agency shall review the status and if so indicated, may allow it to remain in exempt status for an additional four months. Continued absence through the entire eight months shall be deemed to be permanent and the property shall be removed from exempt status.

6. Personal property, such as, but not limited to house furnishings and clothing which are used regularly or likely to be used;

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

ii. Personal effects if regularly used or of small intrinsic value.

(1) Items of exceptional value not regularly used and not essential to the physical health and safety of the eligible assistance unit are not exempt.

7. Livestock, machinery, tools, equipment, and stock-in-trade which serve to produce some net income in cash or in kind or serve as an incentive for self-help; livestock or property owned or used by a child in connection with a group or school activity (such as 4-H); and, farm and garden products raised by the eligible assistance unit for its own use;

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

9. Nonrecurring gifts and contributions of nominal amount or value, such as those for birthdays, graduations or holidays;

10. Bona fide and/or personal loans which are held and used for specific purposes in accordance with the conditions of the loan and not used to meet day-to-day living costs; and, such loans are evidenced by a document signed by the client and the lender which states the amount of the loan and terms of repayment.

11. Fees paid in conjunction with the collection of a pending claim when the costs were incurred during a period of receipt of WFNJ (see N.J.A.C. 10:90-7);

12. Prepaid burial plots (limited to one for each member of the eligible assistance unit) and prepaid bona fide funeral agreements up to a total value of \$4,000 per assistance unit member, to the extent that the total equity value of any agreement attributable to each member of an eligible assistance unit does not exceed \$2,430;

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

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

13. Life insurance policies;

14. Resources designated for special purposes are as follow:

i. Relocation adjustment payments which are made pursuant to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

ii. The value of the coupon allotment for any household participating in the Food Stamp Program of the U.S. Department of Agriculture;

iii. Allowances for participation in the WFNJ program, including payments for transportation and related expenses set forth in the supportive services section at N.J.A.C. 10:90-5 and payments for child care;

iv. Allowance payments, that is, monies paid to offset expenses related to training received by a WFNJ parent or parent-person who is participating in the Job Training Partnership Act (JTPA) program;

v. Payments to assistance units for child care in situations where special circumstances occur within the household (such as emergency illness of the parent(s)) that necessitate alternative care for a child on a temporary basis; and, transportation or the cost of transportation, which is not available from any other source, to transport that child to and from the child care site when it is essential for the child's physical health and safety;

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

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

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

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

vii. Monies received through the Subsidized Adoption Program of the Division of Youth and Family Services pursuant to N.J.S.A. 30:4C-45 through 49 (P.L. 1973, c.81);

viii. Monies received on behalf of foster child care, including extra payments received for special services; and,

ix. Funds received by applicants and recipients through certain Federal programs as delineated in (1)-(18) below:

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

(2) Funds which are tax-exempt portions of payments made pursuant to Public Law 92-03, the Alaska Native Claims Settlement Act;

(3) Benefits or assistance received through the WIC program (Special Supplemental Food program for Women, Infants and Children) and the special food services program for children under the National School Lunch Act as amended by Public Laws 92-433 and 93-150;

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

(5) Payments made through Service Corps of Retired Executives (SCORE), Active Corps of Executives (ACE);

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

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

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

(9) Allowances and benefits under the National and Community Service Trust Act of 1993 (NCSTA) which established a Corporation for National and Community Service which administers national service programs, including the Americorps programs, the Senior Corps and Youth Corps programs; the Learn and Serve program and, the Volunteers in Service to America (VISTA) program;

(10) All student financial assistance received under Title IV of the Higher Education Act and under the Bureau of Indian Affairs student assistance programs;

(11) Student financial assistance made for attendance costs under the Carl D. Perkins Vocational Education Act Amendments of 1990;

(12) Restitution made, under Section 105 of Title I of P.L. 100-383, the Civil Liberties Act of 1988, to individuals of Japanese ancestry who were interned during World War II;

(13) Restitution made, under Section 206 of Title II of P.L. 100-383, the Aleutian and Pribilof Islands Restitution Act, to Aleuts who were relocated by the U.S. government during World War II;

(14) Major disaster and emergency assistance granted under Section 105 of P.L. 100-707, the Disaster Relief and Emergency Assistance Amendments of 1988, including FEMA;

(15) Agent Orange payments as provided for under Section 1(a) of P.L. 101-201 and Section 10405 of P.L. 101-239 of the Omnibus Budget Reconciliation Act of 1989;

(16) Amounts paid to individuals, under Section 6(h)(2) of P.L. 101-426, the Radiation Exposure Compensation Act of 1990, for injuries or deaths due to exposure to radiation from nuclear testing and uranium mining;

(17) Payments made to individuals because of their status as victims of Nazi persecution; and,

(18) Stipends received by individuals who participate in the New Jersey Youth Corps Stipends Program.

10:90-3.21 Overpayments and underpayments

(a) Overpayment means a financial assistance payment (including emergency assistance) received by or for an eligible assistance unit for the payment month(s) which exceeds the amount for which that unit was eligible.

1. The county or municipal agency shall seek recovery of all overpayments (including emergency assistance) regardless of fault, including overpayments caused by administrative action or inaction and overpayments resulting from assistance paid pending hearing decisions.

2. Recovery may be accomplished by securing repayment from the existing income and resources of the assistance unit, by reducing the cash benefits payable to the assistance unit, or by securing repayment through court action, if necessary. For cases which have both an underpayment and overpayment, the county or municipal agency may offset one against the other in correcting the payment.

3. The amount of the overpayment shall be the amount of assistance (including emergency assistance) received during the period of overpayment less the amount of assistance which should have been received.

i. In the case of an overpayment caused by the client's failure without good cause to report earned income on a timely basis, the amount of the overpayment shall be calculated without benefit of the earned income disregards provided for at N.J.A.C. 10:90-3.8.

ii. If an eligible assistance unit is overpaid for which the county agency receives child support collections, only that amount of assistance paid in excess of support payments received during the period of overpayment shall be considered for overpayment collection.

4. Liability for overpayment of assistance (including emergency assistance) is established jointly among the individual responsible for the overpayment, the overpaid eligible assistance unit, the individual members of the eligible unit and any eligible unit of which a member of the overpaid eligible unit subsequently becomes a member.

5. Upon discovery of an overpayment, the county or municipal agency shall inform the client in writing of the incorrect payment(s), the amount of overpayment and what corrective actions will be taken.

6. Overpayment to an eligible unit which is currently receiving assistance (including recipients whose overpayment occurred during a prior period of eligibility) may be repaid in full by the eligible unit or in part wherein the assistance benefit amount may be reduced by 10 percent of the appropriate benefit allowance for the unit size, until recovery is completed.

i. If, on a case by case basis, it is determined that, in the judgment of the county or municipal agency, the 10 percent reduction in the assistance benefit may be detrimental to the well-being of the assistance unit, a lesser rate of recovery shall be established, but not below a minimum rate of five percent.

ii. If the benefit assistance amount is reduced to zero because of recovery, members of the eligible unit will continue to be considered recipients of WFNJ. If the amount payable because of recovery is less than \$10.00, the WFNJ check shall be issued in that lesser amount.

7. When a member of the eligible assistance unit is the individual responsible for the overpayment, the agency shall recover the overpayment from that eligible unit.

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

i. If despite agency action, recovery is not completed through court action, the agency shall recover the overpayment in accordance with (a)10 below.

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

10. In all other circumstances, the priority of recovery of overpayments shall be: the overpaid eligible unit; any eligible unit of which a member of the overpaid eligible unit subsequently becomes a member; or, any individual members of the overpaid eligible unit whether or not currently recipients.

11. Overpayment to an assistance unit, all members of which are no longer receiving WFNJ shall be recovered by the county or municipal agency through a court of appropriate jurisdiction if the assistance unit does not voluntarily repay the overpayment.

i. Where the overpayment amount owed by an assistance unit no longer receiving WFNJ is less than \$100.00, or it is determined that, after reasonable effort to recover the overpayment it is no longer cost effective to continue recovery efforts, the county or municipal agency may waive recovery of the overpayment. All circumstances concerning a waiver of recovery must be fully documented in the case record.

ii. Recovery of overpayments due to fraud or Intentional Program Violation (IPV) (see N.J.A.C. 10:90-11) may not be waived regardless of the amount of overpayment.

12. The county or municipal agency must take one of the following three actions by the end of the quarter following the quarter in which the overpayment is first identified:

i. Recover the overpayment(s);

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

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

13. In all situations of overpayments, the facts and circumstances in each case shall be evaluated and, where indicated, action taken as appropriate in accordance with regulations pertaining to fraudulent receipt of assistance (see N.J.A.C. 10:90-11).

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

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

2. When underpayment was due exclusively to administrative error by the agency, corrective payment shall be made, retroactive to the month the administrative error first occurred, within the 12 months immediately preceding the discovery of the underpayment.

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

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

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

10:90-3.22 WFNJ TANF/GA case redetermination process

(a) Case redetermination is a review of the factors affecting WFNJ TANF/GA eligibility and payment amount. At the time of redetermination, the recipient shall execute a formal application for continuation for assistance. If a redetermination is not conducted and the county/municipal agency is responsible, the right of the client to continued assistance shall not be jeopardized.

1. WFNJ/TANF cases shall be redetermined at least every six months.

2. WFNJ/GA cases shall be redetermined at least every six months. A monthly review of eligibility may also be conducted in accordance with 2i below.

i. The eligibility of each WFNJ/GA case may be reviewed at least once each calendar month. The Form GA-19, Authorization and Case Review Card, shall be utilized during the review. This review provides an opportunity for the agency administering the WFNJ/GA program to evaluate any change in the client's circumstances or income and make appropriate adjustments on Form GA-19 in the amount of assistance to be granted.

(b) WFNJ recipients shall be personally interviewed by the WFNJ worker regarding the application for continuation of assistance. The WFNJ worker shall assist the recipient as necessary. If the recipient cannot read, the contents of the form shall be read to the recipient. Upon request, the recipient will be given a copy of his or her executed application form, with any attachments. Signature requirements shall be the same as for initial application. The contact shall focus on a discussion of the eligibility factors which are subject to change (with special attention being given to any change in residence which may affect county/municipal responsibility and age of the youngest child and school attendance) and shall include information about any change in agency policy or procedure which affects the recipient's status or his or her assistance payment. There will also be a reevaluation of the recipient's need for social services. When the recipient is represented by a protective payee or has a representative payee (see N.J.A.C. 10:90-3.23), such person shall also be interviewed. A summary report including all pertinent information shall be made by the WFNJ worker for each contact with the recipient and any collateral sources.

(c) When there is a substantial question of continuing WFNJ eligibility to be resolved, the monthly assistance benefit may be suspended, subject to timely and adequate notice provisions at N.J.A.C. 10:90-9, for a period of up to three months.

1. If a determination is made to reinstate benefits, the county or municipal agency shall give adequate notice to the recipient and the monthly assistance benefit shall be retroactive to the time of suspension, adjusted to reflect any change in circumstances which may have occurred during the suspension period.

2. If a determination is made to terminate WFNJ assistance, the county or municipal agency shall give timely and adequate notice of the impending adverse action to the recipient.

10:90-3.23 Payees in WFNJ

(a) Payees in WFNJ are classified as designated payees, temporary payees, protective payees and representative payees (see (b) through (e) below).

1. In addition to the provisions allowing for payees under the WFNJ program, provisions are also included for situations which may warrant the use of restricted payments in the form of vendor payments or two-party checks for goods and services provided to or for a recipient. Such restricted assistance payments shall be provided at the request of the WFNJ recipient or at the discretion of the county or municipal agency (see (f) below).

(b) A designated payee is a person signing the application to whom the check is issued.

1. No person under official commitment in a mental institution, who has been adjudicated mentally incompetent, or whom the county or municipal agency has determined is an alleged incompetent may be a designated payee.

2. Whenever there is more than one person signing the application, the WFNJ worker shall discuss with the applicants who the designated payee should be. The assistance unit should be encouraged to continue their normal pattern for management of income.

(c) A temporary payee is a person designated temporarily by the county or municipal agency to receive the assistance payment, usually in an emergency situation.

1. A permanent arrangement must be established within two calendar months following the month in which the emergency occurs.

(d) A protective payee is a person authorized by the county or municipal agency to receive and administer assistance payments on behalf of an eligible individual or family due to mismanagement of funds by the eligible individual or family.

1. A protective payee is not authorized to receive, hold or administer any other property, real or personal, of the recipient nor to act as the representative of the recipient in any other manner whatsoever, unless authorized by a court of law or has power of attorney.

2. The case record shall be fully documented and shall contain a statement of the specific reasons that demonstrate the need for a protective payee.

3. The county or municipal agency shall be responsible for assuring referral to social services for appropriate action to protect the recipient(s) where problems and needs for services are manifestly beyond the ability of the protective payee to handle.

4. The county or municipal agency shall undertake and continue special efforts to assist the recipient in developing the ability to manage funds in such a manner as to protect the welfare of the assistance unit.

5. The county or municipal agency shall review the case as frequently as indicated by the individual's circumstances, but at least every six months, relevant to the need for protective payments and the way in which the protective payee's responsibilities are carried out.

6. Provisions shall be made for termination of protective payments, as follows:

i. When recipients are considered able to manage funds in their best interest, the protective payee arrangement shall be terminated and the case shall be returned to unrestricted payment status.

ii. When it appears that the need for protective payments will continue or is likely to continue beyond a two year period because all efforts have not resulted in a sufficiently improved use of assistance, then the judicial appointment of a guardian or other legal representative shall be sought and such payments will terminate when the appointment has been made.

7. A protective payee shall be selected, so far as possible, with the participation and consent of the recipient or of someone responsible for acting on his or her behalf.

8. If it is in the best interest of the recipient for a staff member of a private agency, of the county or municipal agency, or of any other appropriate organization to serve as a protective payee, such selection shall not include the following persons:

i. The Director of the county or municipal agency;

ii. The WFNJ worker who determines eligibility for the particular recipient;

iii. Staff handling fiscal procedures related to the recipient;

iv. Vendors of goods, services or items dealing directly with the recipient; and,

v. Any person who has him or herself been determined by professional diagnostic procedures to be incompetent or "marginally incompetent".

9. A recipient who has been determined to require protective payments shall be given written notice, and an oral explanation, of his or her right to a fair hearing, if he or she is dissatisfied with the decision to appoint a protective payee, the choice of a protective payee, the continuation of protective payments or the manner in which the payee is functioning. If the fair hearing issue is the decision to appoint a protective payee, a temporary payee will be designated by the county or municipal welfare agency pending the fair hearing decision.

(e) A representative payee is a person appointed by the court to receive and administer assistance payments on behalf of an eligible individual or family. A representative payee is not authorized to receive, hold or administer any other property, real or personal, of the recipient, nor to act as representative of the recipient in any other manner whatsoever, unless authorized by a court of law or has a power of attorney.

1. When a representative payee wishes to be released from his or her responsibilities, there must be an application to the court for such release.

2. Upon such notice from a representative payee, the county or municipal agency shall take prompt action to locate another person willing to be appointed. If the present representative payee is unable to continue in that capacity until released by the court, the county or municipal agency shall appoint a protective payee to receive assistance for the client until a new representative payee is appointed by the court.

3. The major personal criterion for selection of a representative payee is an interest in being of service to the recipient. Appropriate sources of recruitment include: the immediate family and other relatives and friends; a person previously appointed to act on behalf of the client by another state or Federal benefit paying agency; and staff members of voluntary agencies.

4. The following persons are precluded from being appointed as a representative payee due to possible conflict of interest questions:

- i. The Director of the county or municipal agency;
- ii. The WFNJ worker who determines eligibility for the particular recipient;
- iii. WFNJ staff handling fiscal procedures related to the recipient;
- iv. Banks, trust companies and similar corporate bodies functioning in a ministerial rather than a decision making role; and,
- v. Vendors of goods, services, or items dealing with the recipient.

5. No person shall be proposed for appointment, nor accept appointment, as a representative payee who is in the employ of the county or municipal agency except in situations where such person has a close personal relationship with the client which makes him or her the most suitable person to serve as the client's representative. If an employee with such a relationship is so appointed, he or she shall not thereafter be involved in any agency decision relating to the client's payment or other official actions regarding the client.

(f) A WFNJ recipient may request that, or a county or municipal agency may determine at its discretion that payments be made to a person or facility as compensation for providing goods and services to or for the WFNJ recipient. Such restricted payments may be in addition to the regular monthly benefit in emergency assistance situations or may be a designated portion of the regular monthly benefit.

1. Restricted payments shall be made in the form of vendor payments or two-party payments, that is, checks which are drawn jointly to the order of the recipient and the provider of the services in situations such as, but not

limited to: emergency assistance; rent, mortgage or utility payments; transportation expense and child care.

SUBCHAPTER 4. WFNJ WORK REQUIREMENTS

10:90-4.1 General Work Requirement Provisions

(a) Each WFNJ adult recipient, unless specifically deferred or unless otherwise specified in this subchapter, shall cooperate with and participate in the WFNJ work requirements in accordance with Federal regulations, the Federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, the New Jersey State Plan for Temporary Assistance for Needy Families, the Work First New Jersey Act and the New Jersey Food Stamp Employment and Training State Plan, for up to 40 hours per week as a condition of eligibility for receipt of cash assistance benefits.

1. Each WFNJ/TANF adult recipient, unless deferred from the work requirement, shall continuously and actively seek employment in an effort to gain self-sufficiency. Unless otherwise specifically deferred under this section, each WFNJ recipient shall cooperate with and participate in the WFNJ work requirements as a condition of eligibility for receipt of cash assistance benefits.

(b) WFNJ/GA single adults or couples without dependent children who are registered for work and are complying with the Food Stamp Employment and Training Program (FSETP) shall be required to participate in an FSETP work activity and shall meet their WFNJ work requirements through the FSETP. Single adults and couples without dependent children not registered for work and not participating in the FSETP shall register for work with the New Jersey Employment Service (NJES) and shall participate in a NJES work activity.

(c) Upon application, determination or redetermination of eligibility for WFNJ benefits, all WFNJ recipients, as appropriate, shall be required to register for work with the New Jersey Employment Service (NJES).

1. NJES shall place WFNJ/GA single adults and couples without dependent children in an approved activity, monitor compliance, and notify the county or municipal agency, as appropriate, when the recipient fails to comply with the activity.

(d) Failure to actively cooperate with or participate in the WFNJ work activity requirements, without good cause, shall be considered noncompliance and shall result in loss of cash assistance benefits on a per capita basis (see Sanctions at N.J.A.C. 10:90-4.11).

1. When the NJES reports to the county or municipal agency noncompliance by a WFNJ/GA participant, the county or municipal agency shall act on the report of

noncompliance within 10 days and issue a notice of adverse action as appropriate.

(e) A recipient who is not engaged in full time unsubsidized employment shall be required to commence participation in a work activity, self-directed job search, job search or other designated work/educational activity as follows (whichever occurs first):

1. As soon as it is determined that the individual is ready to engage in work or in a work activity; or
2. At some time prior to the individual having received 24 months of cash assistance benefits (whether or not the receipt of such cash assistance is consecutive) unless deferred.

(f) Recipients shall be required to sign an individual responsibility plan (IRP) which shall indicate the terms of the work activity requirements that the recipient must fulfill in order to continue to receive benefits as well as identify work related supportive services (such as child care, transportation, and other work-related expenses necessary to engage in work activities) that are to be provided.

10:90-4.2 Work Activity Participation

(a) All recipients shall continuously and actively seek work and engage in job search. Recipients who are job ready shall be placed in job search immediately. Other recipients shall be encouraged to continuously seek employment. If no employment is found, they shall be placed in an appropriate work activity as indicated by their individual assessments.

1. Participation in job search may be counted for up to six weeks, of which no more than four weeks may be consecutive.

(b) An WFNJ/TANF adult recipient in a single parent family unless temporarily deferred, shall be required to participate in one or more work activities for up to 40 hours per week.

1. WFNJ/GA single adults or couples without dependent children, unless temporarily deferred, shall be required to participate in one or more work activities.

i. When a WFNJ/GA individual(s) is participating in a CWEP activity, the maximum number of hours per week shall be determined by calculating the total of the recipient's monthly cash assistance grant, plus any Temporary Rental Assistance (TRA), Emergency Assistance (EA), and the Food Stamp allotment divided by the higher of the federal or state minimum hourly wage and further divided by 4.333. Any resulting partial hour shall be rounded down to the next whole hour. The WFNJ/GA individual(s) may be required to participate in another activity such as job search or remediation.

ii. The NJES shall be responsible for calculating the number of hours a WFNJ/GA recipient is to participate in CWEP based on the information reported by the county or municipal agency at the initial eligibility determination or when the county or municipal agency reports a change to NJES. If available, NJES may access this information through the State's automated information system.

(c) A teen parent under the age of 18 shall be required, on a full time basis, to attend high school or an equivalent course of study unless:

1. It is determined that the teen parent is exempt from regularly attending high school or its equivalent, based upon an assessment which indicates the person's inability and lack of aptitude to successfully complete such academic requirements, then the teen parent shall be required to participate full time in an approved alternative educational or training program, including special educational programs for the learning and developmentally challenged (the hours of participation shall be in accordance with the scheduled program).

2. The teen parent has completed secondary education then he or she shall be required to participate in a work activity for a minimum of 35 hours per week.

(d) A recipient who has not completed high school and has not attained 20 years of age and is a single head of household, a single adult or either of the adults of a couple without children shall be required to maintain satisfactory school attendance at secondary school or the equivalent during the month or participate in education directly related to employment for at least 20 hours per week. If it is determined that, due to the person's inability or lack of aptitude to successfully complete academic requirements, he or she shall be required to participate in another appropriate work activity.

(e) Each parent in a two-parent WFNJ/TANF family shall be required to participate in one or more activities for a minimum of 35 hours per week up to a maximum hourly total of 40 hours per week, unless otherwise deferred in accordance with N.J.A.C. 10:90-4.9.

1. For one parent thirty hours of the required 35 hours of participation shall include participation in one or more of the following Federally recognized activities: unsubsidized employment; work experience (including work associated with the refurbishing of publicly assisted housing); on-the-job training; job-search and job readiness assistance; community service programs; vocational educational training (not to exceed 12 months per individual) which may be combined with work experience; or the provision of child care services to an individual who is participating in a community service program.

2. The second parent shall be required to satisfactorily participate in work activities for 35 hours a week of which a minimum of 20 hours shall be in the following Federally recognized activities: unsubsidized employment; work experience (including work associated with the refurbishing of publicly assisted housing); on-the-job training; or community service programs.

(f) Individuals 16 through 18 years of age who are attending school on a full-time basis and are expected to complete the program of the school before reaching the age of 19 are required to satisfactorily attend the scheduled classes at a secondary school or a course of study leading to a certificate of general equivalence.

1. Individuals, age 16 to 18, who are students and who drop out of school will be required to enroll and participate in another appropriate work activity for a minimum of 35 hours per week. Failure to comply with the work activity will result in the sanctions for such persons as stipulated at N.J.A.C. 10:90-4.11.

(g) A recipient who is a full-time post-secondary student in a course of study related to employment, as defined at N.J.A.C. 10:90-4.3(j)1, shall be required to engage in another work activity for 15 hours a week subject to the recipient making satisfactory progress toward the completion of the post-secondary course of study.

Administrative correction.
See: 29 N.J.R. 3729(a).

In (b), deleted "a minimum of 35 hours per week to a maximum aggregate hourly total of" preceding "up to 40 hours per week"; in (b)1, deleted "for an average total of 30 hours per week" following "or more work activities"; in (e)1 and 2, under Federally recognized activities deleted subsidized private sector employment and subsidized public sector employment.

10:90-4.3 Description of work activities

(a) Unsubsidized employment: Employment in the private or public sector which is not subsidized in any way.

(b) Supported Employment: This employment activity is tailored to meet the needs of those recipients who demonstrate serious barriers to employment (such as learning disability or illiteracy, drug and alcohol problems, and/or physical/mental disabilities). Supported on-the-job employment opportunities and sheltered workshop approaches (modeled after successful programs in the mental health and developmental disabilities field) will serve persons with such barriers. When the participant is experiencing difficulties on the job, a job coach will interact with the participant and the employer to resolve problems that may affect their continued employment.

(c) Community Work Experience Program (CWEP) is to be utilized to provide work and training to enable the recipient to adjust to, and learn how to function in, an employment setting. Placements shall only be with a public, private nonprofit or private charitable employer. CWEP placements are directed towards organizations and agencies

directly involved in useful public service areas such as health, recreation, child and adult care, education, environmental protection, social services, etc. A CWEP participant shall not be placed with a private for profit employer.

(d) Alternative work experience programs (AWEP) consists of work and training for WFNJ recipients on a temporary basis with a public, private nonprofit or private charitable employer that provides a recipient with the experience necessary to adjust to, and learn how to function in, an employment setting and the opportunity to combine the 20 hours per week work experience with 15 hours per week of education (which may include English as a Second Language), substance abuse treatment, vocational exploration and/or job training. An AWEP participant's work experience placement shall not be with a private for profit employer.

(e) On-the-job training (OJT): An employment opportunity which includes training. The participant is hired by a private or public employer and receives training that provides knowledge or skills essential to the full and adequate performance of the job. At the end of the OJT, the participant shall be retained by the employer as a regular employee if the individual has made satisfactory progress during the OJT contract period.

(f) Job search and job readiness assistance: Employment-directed activities in which participants engage in activities with the immediate goal of obtaining full-time employment. Job search is directed to the individual participant's needs and local job market conditions and may serve participants in either group, individual, or self-directed job-seeking activities, or a combination thereof. Job search is an appropriate up front activity for applicants as well as job ready recipients who have basic workplace skills and experience applicable to the labor market. Job readiness activities will also be combined with job search to enhance the effectiveness of job search activities for those in need of additional skills development.

1. Job search and job readiness activities shall be counted for a maximum of six weeks (four of which may be consecutive) unless New Jersey's unemployment rate is 50 percent greater than the unemployment rate of the United States, in which case this activity may be extended to 12 weeks.

(g) Community service programs: Self-directed or scheduled preparatory work activities in which participants may provide an array of vital services designed to increase the common good and/or improve the condition of the community in which he or she resides. Examples include but are not limited to the provision of child care as a community service project; mentoring or tutoring activities conducted under the auspices of organizations such as Big Brothers/Big Sisters, Americorps, Habitat for Humanity; physical or administrative labor performed on behalf of a community organization/group; and volunteer work in hospitals, bat-

tered women's shelters, libraries, schools or other such public institutions.

(h) Vocational educational training: An activity involving institutional or other classroom training conducted by an instructor in either a worksite or non-worksite setting. Participants receive instruction in specific occupational areas which reflect the current local labor market demand. Providers of this type of activity include, but are not limited to community based organizations; private for profits; community/county colleges; Voc-Tech school; JTPA's; and adult high schools.

1. This activity shall not be utilized for more than 12 months for any individual.

i. When a WFNJ/GA individual is placed in this activity in compliance with the FSETP the 12 month limitation shall not apply.

(i) Job skills training directly related to employment: This activity is tailored for those recipients who demonstrate serious barriers to employment (such as learning disability or illiteracy, drug and alcohol problems, and/or physical/mental disabilities) and may include such activity components as pre-employment job coaching and mentoring (modeled after successful programs in the mental health and developmental disabilities field).

(j) Education directly related to employment: An activity that shall be utilized in situations when a recipient has not received a high school diploma or a general equivalence diploma (GED). This activity involves the participant in a course of study leading to a certificate of general equivalency, or post-secondary education, when combined with community work experience participation or other approved work activities, including employment.

1. Post-secondary education must lead to recognized careers for which there is a demand in the New Jersey job market as published by the New Jersey Department of Labor.

(k) Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence: This activity shall be utilized in the case of a recipient who is a teenage parent or a recipient under the age of 19 who is expected to graduate or complete their course of study by their 19th birthday (See N.J.A.C. 10:90-4.4 for what constitutes satisfactory attendance.)

(l) Provision of child care services: This activity involves the WFNJ recipient in the direct provision of child care services to another WFNJ individual who is participating in a community service program or other State approved employment-directed program.

(m) Other work activities may be added to those set forth above in order to comply with Federal or State laws and/or to maximize Federal funds.

Administrative correction.

See: 29 N.J.R. 3729(a).

In (c) and (d), deleted "unpaid" preceding "work and training"; and in (j)1, deleted "significant" preceding "demand".

10:90-4.4 Satisfactory attendance

(a) Individuals are expected to participate in required activities 100 percent of the time. However, individuals shall be considered to be satisfactorily participating in WFNJ work requirement activities if it is determined that the individual attends no less than 75 percent of the scheduled hours of activity during a month. The following are exceptions to this provision:

1. Satisfactory attendance shall be based on what the secondary school or equivalency program considers mandated attendance in order to complete the course or program.

2. For purposes of job search or job readiness participation, a county or municipal agency, as appropriate, shall consider, only on one occasion per individual, less than a week of participation (that is, three or four days) as a full week.

10:90-4.5 Conditions under which CWEP and AWEP shall be regarded as employment

(a) Participation by a recipient in CWEP or AWEP activity provided by a sponsor, pursuant to the Federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," P.L. 104-193, shall not be considered employment for any purpose, except that such participation shall be regarded as employment as follows:

1. The "Law Against Discrimination," P.L. 1945, c.169 (C. 10:5-1 et seq.), and the sponsor, not the program, shall be deemed the employer for purposes of any action brought under this Act;

2. The "New Jersey Public Employees' Occupational Safety and Health Act," P.L. 1983, c.516 (C. 34:6A-25 et seq.) when the sponsor is a public employer subject to this Act;

3. The "Conscientious Employee Protection Act", P.L. 1986, c.105 (C.34:19-1 et seq.) and the "Worker and Community Right to Know Act," P.L. 1983, c.315 (C.34:5A-1 et seq.);

4. The purposes of Chapter 15 of Title 34 of the Revised Statutes (Worker's Compensation), and the participant shall be regarded an employee of the State and the sponsor, subject to the provisions set forth below at 10:90-4.6; and

5. The "Family Leave Act," P.L. 1989, c.261 (C.34:11B-1 et seq.) and the recipient shall be entitled to family leave, to the same degree as any similarly-situated employee of the sponsor, as well as family and medical leave pursuant to Federal law.

10:90-4.6 Work activity placement parameters

(a) A recipient shall not be placed or utilized in a position at a particular workplace (including CWEP placements):

1. That was previously filled by a regular employee if that position, or a substantially similar position at that workplace, has been made vacant through a demotion, substantial reduction of hours or a layoff of a regular employee in the previous 12 months, or has been eliminated by the employer at any time during the previous 12 months;
2. In a manner that infringes upon a wage rate or an employment benefit, or violates the contractual overtime provisions of a regular employee at that workplace;
3. In a manner that violates an existing collective bargaining agreement or a statutory provision that applies to that workplace;
4. In a manner that supplants or duplicates a position in an existing, approved apprenticeship program;
5. By or through an employment agency or temporary help service firm as a community work experience or alternative work experience worker;
6. If there is a contractual or statutory recall right to that position at that workplace; or
7. If there is an ongoing strike or lockout at that workplace.

(b) A person who believes that he or she has been adversely affected by a violation of this subsection, or the organization that is duly authorized to represent the collective bargaining unit to which that person belongs, shall be afforded an opportunity to resolve the complaint through a meeting with the designee of the Commissioner of the State Department of Labor.

10:90-4.7 Employment profile (assessment)

(a) Each adult recipient, who is not otherwise deferred from the work requirement, shall be evaluated to determine his or her relative employability. This evaluation shall result in an employment profile, and shall include, but is not limited to, the following areas:

1. Past work history, and duration on public assistance;
2. Job interest areas and employability strengths;
3. Marketable employment-related skills; and
4. Education level, including inventory of training received.

Administrative correction.
See: 29 N.J.R. 3729(a).

10:90-4.8 Individual Responsibility Plan (IRP)

(a) An individual responsibility plan (IRP) shall be developed jointly by the county or municipal agency representative, as appropriate, and the WFNJ recipient at time of eligibility determination, and shall be jointly reviewed and/or revised at time of redetermination. Interim changes/updates to the IRP shall be made more frequently as appropriate and necessary in accordance with individual progress and/or change in circumstances. The IRP shall be signed and dated by the recipient and the respective agency representative. The original IRP shall be maintained electronically or in the case record and a copy shall be provided to the recipient. The IRP shall contain:

1. General case information concerning the individual;
2. A specific employment goal and work activity;
3. Supportive services to be provided to enable participation in the work activity, such as child care, transportation allowances and other available supportive services; and
4. Recipient's education level, that is, the highest grade completed.
5. The IRP may also include specific goals concerning a dependent child member of the assistance unit such as, but not limited to:
 - i. Requirements for parental participation in a dependent child's pre-school, elementary and secondary school program activities;
 - ii. Immunizations for a dependent child; or
 - iii. Regular school attendance by a dependent child

(b) The IRP for teen parents shall include all of the requirements listed in (a) above, if appropriate, as well as, but not limited to the following:

1. Regular attendance in high school or an equivalent program of study; or
2. Participation in an approved work activity for those teen parents who have completed secondary education;
3. Identification of necessary supportive services which are not available free through another source, including child care and transportation, as needed;
4. Identification of barriers to employment and a plan of action to be taken, including screening and assessment for substance abuse, as appropriate.

(c) The IRP for victims of domestic violence shall include the following, as appropriate:

1. Set goals to move forward toward safety and self-sufficiency. The goals established shall be reviewed with the individual at three month intervals to determine the status and progress the individual has made toward meeting the established goals;

2. Identification of necessary supportive services, such as, but not limited to: information and referral to the Department of Human Services' (DHS) Designated Domestic Violence Programs which provide all core services or to Rape Crisis Programs, as well as referral to any other community services which can assist the victim and any dependent children in the family;

3. If upon disclosure of the domestic violence victimization, the victim expresses a willingness to begin to engage in a work activity prior to the next regular redetermination, this shall be accommodated. For example, the victim may wish to begin work as soon as permanent housing has been secured, the children have been enrolled and settled in school and major court appointments have been kept.

4. At the point of the first regular six-month case redetermination, unless the victim is in crisis and clearly indicates via affidavit that the inability to participate in work activities still exists, the individual shall be scheduled for participation in a regular work activity or participate in community service for a minimum of 20 hours per week, unless the victim is still in crisis. If the victim requests or if the victim elects to do only the 20 hours of community service, the victim shall also be referred to the local DHS Designated Domestic Violence Program for core services, related support and/or community service placement in counties where arrangements have been made to assist such individuals through purchase of service agreements with the DHS Designated Domestic Violence programs.

5. At each point of redetermination or three month review, the individual shall be encouraged to engage in work and be provided the supportive services available through the program to support the individual's work efforts. If after a full year (that is, at the second six-month redetermination), the participant continues to be unable to engage in a work or community service activity, referral to a DHS Designated Domestic Violence Program shall be made for an assessment of barriers to enable a plan for specific goals and/or activities to be developed. Goals, such as, domestic violence counseling will be clearly identified on the IRP and the individual will be required to engage in this, or community service, in conjunction with the DHS Designated Domestic Violence Program. The plan will also outline specific constructive movement for the victim and the victim's family to move toward self sufficiency.

6. If at the next three month review, still no constructive movement has occurred, completion of a WFNJ-5S will be required to substantiate the continuing exemption/deferral. An exception to this shall be allowed only if the victim is currently being abused, is in crisis, is being sabotaged, stalked or harassed by the abuser and/or is deemed to be at risk of further abuse and this situation has been confirmed by the DHS Designated Domestic Violence Program or a certified Domestic Violence Specialist (CDVS).

Administrative correction.

See: 29 N.J.R. 3729(a).

Inserted new (c)4 and recodified former (c)4 and 5 as (c)5 and 6.

10:90-4.9 Deferrals from the work requirement

(a) Deferrals from WFNJ work requirements shall be limited to:

1. Individuals age 60 or older;

2. Individuals who are unable to engage in regular work activities because they are chronically ill, infirmed, or have a physical and/or mental disability or impairment which is expected to last for more than 12 months and such conditions are certified by an attending physician (including a licensed or certified psychologist, as appropriate) to constitute a permanent disability. Such certification shall be documented through use of Form WFNJ-5(DRS1), Examining Physicians Report, and shall, upon completion by the certifying physician be submitted by the county or municipal agency to the Division of Family Development (DFD) for review and final approval through consultation with the Division of Medical Assistance and Health Services (DMAHS);

i. Individuals receiving a work deferral due to a certified permanent disability shall be required to make application for SSI benefits.

3. A person certified by an attending physician (including a licensed or certified psychologist, as appropriate) to be unable, by reason of a physical or mental defect, disease or impairment, to engage in any gainful occupation for any period of less than 12 months. Such certification shall be documented through use of Form WFNJ-5S, Confidential Medical Examining Physician's Report, which, upon completion by the certifying physician, shall be returned to the county or municipal agency worker, as appropriate for review and final determination of deferral from participation from work requirement activities within the WFNJ program. (see N.J.A.C. 10:90-4.9(b))

4. WFNJ/GA single adults or couples without dependent children who are determined unemployable in accordance with provisions set forth at N.J.A.C. 10:90-2.9(a)23. The WFNJ-5S or WFNJ-5(DRS1) medical form will be required.

5. A women in the second trimester, or earlier, of a pregnancy, when it is certified by an attending physician that a medical reason exists;

6. A woman in the third trimester of pregnancy;

7. The parent or relative of a child under the age of 12 weeks who is the individual providing care for that child;

i. This deferral may be extended for an appropriate period of time, when it is certified by the attending physician to be medically necessary for the parent or child.

8. A person who has been determined to be temporarily disabled resulting from his or her participation in a CWEP or AWEP activity.

9. An individual who is participating in a CWEP or AWEP activity and is eligible for leave under the State Family Leave Act and the family and medical leave provisions allowed under federal law.

10. The sole caretaker (parent/relative) of a severely disabled or seriously ill dependent child or the sole caretaker (parent/relative) of a severely disabled or seriously ill family member.

11. Individuals determined to be victims of domestic violence who have requested temporary deferral from work via affidavit due to circumstances/trauma related to the domestic violence incident in accordance with requirements set forth at N.J.A.C. 10:90-1.1(f).

(b) In all instances when medical documentation is required, the Form WFNJ-5S, Confidential Medical Examining Physician's Report, shall serve as a physician's certification and the following procedures concerning receipt of the completed form shall be adhered to:

1. If the WFNJ-5S states that the incapacity will be for less than 30 days, the agency will approve the deferral and retain the documentation at the agency. At the end of the 30 days the agency worker will review the circumstances of the incapacity with the client and determine if the client is still claiming the same deferral circumstance; if so, another WFNJ-5S is to be completed by the attending physician.

2. If the WFNJ-5S states that the incapacity is expected to last more than 30 days, the county or municipal agency, as appropriate, shall make an approval recommendation and forward a copy of the WFNJ-5S to DFD for final approval which shall be made in consultation with DMAHS.

3. If the WFNJ-5S indicates that the incapacity is expected to last one year or more, the county or municipal agency, as appropriate, shall further require the completion of Form WFNJ-5(DRS1), Examining Physicians Report, which, upon completion by the certifying physician shall be forwarded to DFD for review and final approval which will be in consultation with DMAHS.

(c) Alcohol or drug addiction does not make a recipient unemployable, but shall be considered an impairment if an individual evidences symptoms of alcohol or substance abuse which prevents the individual from securing a job, retaining employment or engaging in a work activity. Such an individual shall be referred for substance abuse treatment. If the individual does not comply with the referral or stops participating in the treatment program, the individual shall no longer be considered deferred from WFNJ work requirement participation.

(d) A recipient shall not be required to engage in work activity if appropriate child care is necessary and unavailable in accordance with child care services at N.J.A.C. 10:15 and 10:15A. Child care is unavailable if:

1. Appropriate child care is not available within a reasonable distance from the individual's home or work-site; or

2. Appropriate informal child care from a relative or otherwise, if available, is unsuitable; or

3. Appropriate formal child care arrangements are unaffordable.

Administrative correction.

See: 29 N.J.R. 3729(a).

In (a)11, amended N.J.A.C. reference; and in (d), deleted "from any other source, and the recipients child(ren) is under 13 years of age or up to 18 years of age if a special needs child" following "Child care is unavailable if:".

10:90-4.10 Good Cause

(a) Good cause for failure to participate in WFNJ or refusal to accept or maintain employment, shall be found if:

1. The mandatory WFNJ participant is certified by DFD to be physically or mentally unable to engage in any education, training, community service, employment or other work activity;

2. The conditions of employment are a risk to the WFNJ individual's health and safety (subject to review and determination by the Division of Family Development);

3. Child care is needed and is not available.

(b) Good Cause for temporary excused participation from the WFNJ activity shall be limited to the following:

1. WFNJ participants shall be temporarily excused from participation if the WFNJ activity for which they are scheduled, as set forth in the IRP, is not available. Excused participation is to be reviewed once every week up to once every month, depending on the circumstances surrounding the reason for the excused participation.

i. During the excused period, the WFNJ participant and the county or municipal agency work shall be expected to continue to comply with the other terms of the IRP.

ii. Another WFNJ activity, which is suitable for the participant and for which necessary supportive services are available, may be substituted as an alternative form of participation for that individual.

2. Absence from a particular day of employment or a WFNJ activity scheduled session shall be considered temporarily excused participation under the following circumstances (when appropriate documentation is provided):

i. Illness of the participant, child of the participant, or any other member of the participant's household or

immediate family who is or becomes dependent upon the participant because of such illness;

ii. Death of a spouse, parent, child, sibling, or grandparent has occurred within the preceding 10 working days; or

iii. Other circumstances requiring the participant's immediate and personal attention, including but not limited to: jury duty, a court appearance, school conferences concerning a child of the participant, medical diagnosis or testing, and other similarly important matters.

10:90-4.11 Sanctions

(a) The failure of a recipient to actively cooperate with the program or participate in work activities, without good cause, shall result in a loss of cash assistance benefits as follows:

1. First offense sanctions:

i. Single adults or couples without dependent children or a single adult with dependent children: In an assistance unit with a single adult or couple without dependent children or a single adult with dependent children, the person in noncompliance shall be subject to a loss of cash assistance benefits as follows:

(1) The cash assistance benefit provided to the assistance unit shall be reduced by the per capita share of the person in noncompliance for a minimum period of one month.

(2) If an intent to comply by the person in noncompliance is not evidenced by the end of the one-month period, the cash assistance benefit amount provided to the assistance unit shall continue to be reduced by the calculated per capita share of the parent in noncompliance for two more months.

(3) If an intent to comply by the person in noncompliance is not evidenced by the end of the third month, the assistance unit's case shall be closed for cash assistance benefits, and a reapplication shall be required by the assistance unit in order to receive cash assistance benefits. However, upon reapplication the person who was sanctioned for noncompliance shall be required to demonstrate a willingness to comply in accordance with provisions set forth at N.J.A.C. 10:90-4.13 (Intent to comply) prior to cash assistance being granted.

(4) A single custodial parent will not be sanctioned for failure to comply with a work requirement, if the parent proves that failure to participate is due to lack of child care or suitable child care.

ii. Two-parent assistance unit with dependent children: In a two-parent assistance unit with dependent children the following sanctions shall be applied for noncompliance:

(1) If one parent is in noncompliance, the cash assistance benefit amount provided to the assistance unit shall be reduced by the calculated per capita share of the parent in noncompliance for a minimum of one month when the other parent is not otherwise participating in a work activity, or is not otherwise deferred.

(2) If an intent to comply by the parent in noncompliance is not evidenced by the end of the one-month period, the cash assistance benefit amount provided to the assistance unit shall continue to be reduced by the calculated per capita share of the parent in noncompliance for two additional months.

(3) If an intent to comply by the parent in noncompliance is not evidenced by the end of the third month, the assistance unit's case shall be closed for cash assistance and a reapplication shall be required by the assistance unit in order to receive cash assistance benefits. However, upon reapplication the person who was sanctioned for noncompliance shall be required to demonstrate a willingness to comply in accordance with provisions set forth at N.J.A.C. 10:90-4.13 (Intent to comply) prior to cash assistance being granted.

(4) When both parents are mandatory to participate and are in noncompliance, the following sanctions shall apply:

(A) The cash assistance benefit amount provided to the assistance unit shall be reduced by the calculated per capita share of both parents for a minimum of one month.

(B) If an intent to comply by both parents is not evidenced by the end of the one-month period, the cash assistance benefit amount provided to the assistance unit shall continue to be reduced by the calculated per capita share of both parents for two additional months.

(C) If an intent to comply by both parents is not evidenced by the end of the third month, the assistance unit's case shall be closed for cash assistance and a reapplication shall be required by the assistance unit in order to receive cash assistance benefits. However, upon reapplication parents who were sanctioned for noncompliance shall be required to demonstrate a willingness to comply in accordance with provisions set forth at N.J.A.C. 10:90-4.13 (Intent to comply) prior to cash assistance being granted.

iii Minor Parent: If the noncompliance is due to the inaction of a minor parent in the assistance unit, sanctions shall be applied as follows:

(1) The per capita share of the minor parent and of the minor parent's spouse, if any, in the assistance unit shall be calculated and deducted from the cash assistance benefit provided to the assistance unit for a minimum of one month.

(2) If an intent to comply by the minor parent in noncompliance is not evidenced by the end of the first-month period, the cash assistance benefit amount provided to the assistance unit shall continue to be reduced by the calculated per capita share of the minor parent and the minor parent's spouse, if any, in the assistance unit for two additional months.

(3) If an intent to comply by the minor parent in noncompliance is not evidenced by the end of the third month, the cash assistance benefit provided to the assistance unit shall be reduced by the per capita share of the minor parent and the minor parent's spouse, if any, in the assistance unit, as well as the dependent child of the minor parent in the assistance unit until willingness to comply is evidenced by the minor parent in accordance with the provisions set forth at N.J.A.C. 10:90-4.13 (Intent to comply).

iv. Dependent child 16 years of age or older: A dependent child 16 years of age or older who fails to comply with the requirement for school attendance or other work activity participation pursuant to this act shall be sanctioned as follows:

(1) The per capita share of the dependent child shall be calculated and deducted from the cash assistance benefit provided to the assistance unit for one month.

(2) If an intent to comply by the dependent child is not evidenced by the end of the one-month period, the cash assistance benefit provided to the assistance unit shall continue to be reduced by the calculated per capita share of the dependent child for two additional months.

(3) If an intent to comply by the dependent child is not evidenced by the end of the third month, the dependent child shall be excluded from the assistance unit for cash assistance benefits until such time as the dependent child demonstrates willingness to comply in accordance with provisions set forth at N.J.A.C. 10:90-4.13 (Intent to comply).

2. Second offense sanctions:

i. Single adult or couple without dependent children or a single adult with dependent children: In an assistance unit with a single adult or couple without dependent children or a single adult with dependent children the following second offense sanctions shall apply:

(1) The cash assistance benefit amount provided to the assistance unit shall be reduced by the per capita share of the person in noncompliance for a minimum period of one month.

(2) When the person in noncompliance evidences the intent to comply by the end of the one-month period, the cash assistance benefit provided to the assistance unit shall continue to be reduced by the per capita share of the person in noncompliance for the following month. Otherwise, if the person does not evidence the intent to comply by the end of the one month period the entire assistance unit shall be subject to a loss of cash assistance benefits for the following month.

(3) If an intent to comply by the person in noncompliance is not evidenced by the end of the second month, the assistance unit's case shall be closed for cash assistance benefits, and a reapplication shall be required by the assistance unit in order to receive cash assistance benefits. However, upon reapplication the person who was sanctioned for noncompliance shall be required to demonstrate a willingness to comply in accordance with provisions set forth at N.J.A.C. 10:90-4.13 (Intent to comply) prior to cash assistance being granted.

ii. Two-parent assistance unit with dependent children: In a two-parent assistance unit with dependent children the following second offense sanctions shall apply:

(1) If one parent is in noncompliance, the cash assistance benefit amount provided to the assistance unit shall be reduced by the calculated per capita share of the parent in noncompliance for a minimum of one month when the other parent is not otherwise participating in a work activity, or is not otherwise deferred.

(2) If an intent to comply by the parent in noncompliance, pursuant to the provisions of this section, is not evidenced by the end of the one-month period, the entire assistance unit shall be subject to a loss of cash assistance benefits for the following month.

(3) If an intent to comply by the person in noncompliance is not evidenced by the end of the second month, the assistance unit's case shall be closed for cash assistance benefits, and a reapplication shall be required by the assistance unit in order to receive cash assistance benefits. However, upon reapplication the person who was sanctioned for noncompliance shall be required to demonstrate a willingness to comply in accordance with provisions set forth at N.J.A.C. 10:90-4.13 (Intent to comply) prior to cash assistance being granted.

(4) When both parents are mandatory to participate and are in noncompliance, the following second offense sanctions shall apply:

(A) The cash assistance benefit amount provided to the assistance unit shall be reduced by the calculated per capita share of both parents in noncompliance for a minimum of one month.

(B) If an intent to comply by both parents is not evidenced by the end of the one-month period, the entire assistance unit shall be subject to a loss of cash assistance benefits for the following month.

(C) If an intent to comply by both parents is not evidenced by the end of the second month, the assistance unit's case shall be closed for cash assistance benefits, and a reapplication shall be required by the assistance unit in order to receive cash assistance benefits. However, upon reapplication both parents shall be required to demonstrate a willingness to comply in accordance with provisions set forth at N.J.A.C. 10:90-4.13 (Intent to comply) prior to cash assistance being granted.

iii. Minor parent: If the noncompliance is due to the inaction of a minor parent in the assistance unit the following second offense sanctions shall apply:

(1) The per capita share of the minor parent and the minor parent's spouse, if any, in the assistance unit shall be calculated and deducted from the cash assistance benefit provided to the assistance unit for a minimum of one month.

(2) If an intent to comply by the minor parent in noncompliance is not evidenced by the end of the one-month period, the cash assistance benefit amount provided to the assistance unit shall be reduced by the calculated per capita share of the minor parent and the minor parent's spouse, if any, in the assistance unit, as well as the dependent child of the minor parent in the assistance unit for the following month.

(3) If an intent to comply by the minor parent in noncompliance is not evidenced by the end of the second month, the cash assistance benefit provided to the assistance unit shall continue to be reduced by the per capita share of the minor parent and the minor parent's spouse, if any, in the assistance unit, as well as the dependent child of the minor parent in the assistance unit until willingness to comply is evidenced in accordance with the provisions set forth at N.J.A.C. 10:90-4.13 (Intent to comply).

iv. Dependent child 16 years of age or older: A dependent child 16 years of age or older who is in noncompliance with the requirement for school attendance or other work activity participation pursuant to this section, shall be subject to the following second offense sanctions:

(1) The per capita share of the dependent child shall be calculated and deducted from the cash assistance benefit provided to the assistance unit for a minimum of two months.

(2) If an intent to comply by the dependent child is not evidenced by the end of the two-month period, the dependent child shall be excluded from the assistance unit for cash assistance benefits, until such time as the dependent child demonstrates intent to comply in accordance with the provisions at N.J.A.C. 10:90-4.13 (Intent to Comply).

v. A person sanctioned for a second offense pursuant to this subsection shall be counseled by the county or municipal agency, as appropriate, prior to the reinstatement of eligibility for cash assistance benefits.

3. Third offense sanctions and sanctions for all subsequent offenses beyond the third offense are as follows:

i. The person(s) in noncompliance and all other members of the assistance unit shall be subject to a loss of cash assistance benefits for a minimum of three months. (Exception: see 3ii below for dependent child third offense sanctions.)

(1) If an intent to comply by the person(s) in noncompliance is not evidenced by the end of the three-month period, the assistance unit's case shall be closed for cash assistance benefits and reapplication shall be required by the assistance unit in order to receive cash assistance benefits. However, upon reapplication the person(s) sanctioned for noncompliance shall be required to demonstrate a willingness to comply in accordance with provisions set forth at N.J.A.C. 10:90-4.13 (Intent to comply) prior to cash assistance being granted.

ii. Third offense sanctions for a dependent child 16 years of age or older who is in noncompliance with the requirement for school attendance or other work activity participation pursuant to this section, shall be as follows:

(1) The per capita share of the dependent child in noncompliance shall be calculated and deducted from the cash assistance benefit provided to the assistance unit for a minimum of three months.

(2) If an intent to comply by the dependent child is not evidenced by the end of the three-month period, then the dependent child shall be excluded from the assistance unit for cash assistance benefits.

(b) Voluntary quit penalty: An adult recipient who voluntarily quits a job, without good cause, shall render the entire assistance unit ineligible for WFNJ cash assistance benefits for a period of two months from the date the county agency or municipal welfare agency, as appropriate, makes the determination that the recipient quit the job.

1. When a WFNJ recipient reports the loss of earned income, the county or municipal agency, as appropriate, shall determine if any adult household member has quit or terminated his or her most recent job, without good cause (see (c) below for good cause).

2. Changes in employment status that result from a permanent reduction in hours of employment while working for the same employer; terminating a failing self-employment enterprise; or resigning from a job at the demand of the employer shall not be considered a voluntary quit.

(c) Good cause defined as it relates to voluntary cessation of work: The individual who voluntarily ceased employment shall be responsible for providing the necessary information so that a good cause determination can be made. Good cause as it relates to voluntary cessation of work shall exist when:

1. Transportation of any means or modes, if required for the job, is unavailable.
2. Child care is necessary for a child under 13 years of age or for a special needs child up to the age of 18 and is unavailable from any approvable source.
3. The individual has been discriminated against by the employer when a formal complaint, appeal or lawsuit is pending and this has been verified by the State Department of Labor or other appropriate source.
4. Work demands render continued employment unreasonable, such as working without being paid on schedule;
5. Work conditions are in violation of Occupational Safety and Health Act (OSHA) and potentially pose a risk to an individual's health or safety.
6. A resignation is recognized by the employer as retirement when the person is 60 years of age or older.
7. An individual is prevented from working as a result of lawful strike by other employees or lockout by the employer.
8. The individual is physically or mentally unable (unfit) to perform the employment, as established by documentary medical evidence or verified information obtained from other sources.
9. Circumstances beyond the individual's control prevent continued employment such as loss of driver's license or insurance or a change in shift or hours of employment causing loss of the individual's regular means of transportation (when transportation does not exist and is necessary), break down of transportation or child care arrangements, and client has demonstrated attempts to alleviate problems and temporary illness or disability as determined on a case by case basis.
10. Problems caused by an inability to speak or write English as determined by the employer shall constitute good cause.
11. The individual is a victim of domestic violence and must leave the job because of harassment or threats by the batterer.

(d) The county agency or municipal welfare agency, as appropriate, shall maintain a record of the number of sanctions which have accrued to an assistance unit.

1. When no member of the assistance unit has incurred a sanction of any kind for a continuous 12-month period, the county agency or municipal agency, as appropriate shall reduce the accrued sanctions by one for that assistance unit. This sanction reduction provision shall be applicable for each continuous 12-month period the members of an assistance unit remain sanction free.

- i. Periods in deferred status shall not be counted as sanction free periods.

Administrative correction.

See: 29 N.J.R. 3729(a).

In (a)3i, deleted "person's" preceding "assistance unit"; in (a)3i(1), deleted "who was" preceding "sanctioned"; in (c)8, deleted "reliable" preceding "verified information"; in (c)9, deleted "required" following "does not exist and is"; and in (c)10, deleted "may" following "the employer shall".

10:90-4.12 Effective date of sanctions

(a) The sanction periods at N.J.A.C. 10:90-4.11 above shall become effective on the first day of the first payment month after the month the decision is made to impose the sanction, subject to timely and adequate notice, as appropriate (see N.J.A.C. 10:90-9 Notice provisions).

10:90-4.13 Intent to comply

(a) Anytime prior to the end of the applicable sanction period, the individual(s) in noncompliance may indicate his or her intent to comply by notifying the county or municipal agency, as appropriate, accordingly. The reduction in cash assistance, however, shall remain in effect for the minimum time period for that level of sanction. The individual in noncompliance shall be required to demonstrate willingness to cooperate with and/or participate in the WFNJ work requirements as follows:

1. The WFNJ individual shall agree to comply with either the activity in which he or she was previously engaged or another activity which is determined appropriate for that individual. In order to demonstrate willingness to comply, the individual shall participate for a period of up to two weeks as determined by the county or municipal agency worker, as appropriate, based on the particular requirement to be satisfied and individual case circumstances.

- i. If the individual fails to participate, as designated, during the intent to comply trial period, the individual will again be sanctioned and the sanction will advance to the next sanction offense level, that is those who were sanctioned for a first offense sanction shall be sanctioned in accordance with second offense sanctions and etc., as stipulated at N.J.A.C. 10:90-4.11 (sanctions).

2. When the county or municipal agency, as appropriate, determines that the intent to comply has been satisfied, the agency shall take action to lift the sanction and to calculate the cash assistance payment for the assistance unit from the date the applicable sanction period ended.

3. During the trial period of the intent to comply, the WFNJ individual shall be eligible for supportive services including child care, if appropriate, which the agency determines are necessary for participation.

10:90-4.14 Appeals

Any appeals resulting from action taken by the county or municipal agency, as appropriate, to impose sanctions for noncompliance with the WFNJ work requirements shall be handled in accordance with established procedures for fair hearings including eligibility for continued WFNJ benefits at an unreduced level during the appeal process (see N.J.A.C. 10:90-9 Fair hearing provisions). Agency records of action taken by the county or municipal agency designee, as appropriate, on the indicated noncompliance shall be made available to the Administrative Law Judge should a fair hearing be requested by the participant.

10:90-4.15 Injury Compensation for CWEP and AWEP Participants

(a) A recipient who participates in a community work experience or alternative work experience shall be regarded as an employee of the State and the sponsor and shall be provided, by the State, with all compensation required and defenses and remedies available pursuant to chapter 15 of Title 34 of the Revised Statutes (Workmen's Compensation) except that:

1. The State shall not provide compensation for temporary disability pursuant to subsection a. of R.S.34:15-12 (see (e) below for temporary disability compensation provisions); and

2. Medical and hospital services shall not be provided pursuant to R.S.34:15-15 unless the recipient becomes ineligible for medical assistance under the "New Jersey Medical Assistance and Health Services Act," P.L. 1968, c.413 (C.30:4D-1 et seq.).

(b) When determining the amount of any compensation provided pursuant to chapter 15 of Title 34 of the Revised Statutes, other than compensation for temporary disability, the amount of compensation shall be calculated as if the recipient's weekly wage was 60 percent of the statewide average weekly wages earned by all employees covered by the Unemployment Compensation Law (R.S.43:21-1 et seq.).

(c) Compensation received for an injury or illness which arises out of and in the course of the CWEP or AWEP and which is permanent in quality and partial or total in character shall not be regarded as earned income and a disregard shall not be applied for that amount in computing the cash assistance benefit provided to the recipient.

(d) Compensation received by a dependent of a recipient for the death of the recipient which is caused by any injury or illness which arises out of and in the course of the CWEP or AWEP shall not be regarded as earned income and a disregard shall not be applied for that amount in computing the cash assistance benefit provided to the dependent.

(e) When it is determined that the recipient has been subject to an injury or illness producing only in a temporary disability, the recipient shall:

1. Receive cash assistance benefits from the WFNJ program;

2. Be deferred from WFNJ activity requirements for the temporary period of the disability; and

3. Notwithstanding any other provision of law, shall be exempted from the 60-month time limit as stipulated at N.J.A.C. 10:90-2.4, during the first 90 days of each period of temporary disability subject to the provisions of this section.

(f) Any recipient participating in a community work experience or alternative work experience, or a dependent of that recipient, who is provided compensation benefits, by the State, for an injury, illness or death arising out of and in the course of the CWEP or AWEP shall be required to surrender any other method, form or amount of compensation or benefits from the sponsor or the State for that injury, illness or death.

(g) The sponsor of the recipient, the State and the employees of the sponsor shall not be liable for the injury, illness or death for which the recipient or dependent of the recipient is provided the compensation, benefits or both, except if it is determined that an intentional wrong has occurred.

(h) A person, other than a recipient or a sponsor, who is injured as a result of an act or omission of a recipient in connection with the recipient's CWEP or AWEP participation shall have the recourse to file an action against the program in a court of competent jurisdiction.

1. The WFNJ program shall have available all of the notice requirements and the defenses available to the State under the "New Jersey Tort Claims Act," N.J.S.A. 59:1-1 et seq. with the exception of the defense that the recipient is not a public employee.

SUBCHAPTER 5. SUPPORTIVE SERVICES

10:90-5.1 Introduction

Certain temporary services shall be available to a WFNJ TANF/GA recipient, as appropriate, in support of the recipient's efforts to work. The rules in this subchapter should not be interpreted as conferring an entitlement to supportive services; likewise, these services shall be provided only as a last resort when no other source of support is available. As it is used in this subchapter, supportive services include, but are not limited to, child care payments, transportation services, a limited allowance to cover necessary work-related expenses and extended medical coverage.

10:90-5.2 Child care services

(a) Child care services, including after-school child care in the case of a child over six years of age, shall be available for WFNJ/TANF eligible dependent children during the recipient's period of eligibility and for the 24 consecutive months following ineligibility for cash benefits as a result of earned income. Depending upon the program, child care services will be provided in accordance with N.J.A.C. 10:15 and 10:15A or 10:81-14.18.

1. Payment for child care following eligibility shall be available only if WFNJ benefits were received in at least

three of the six months preceding the first month of ineligibility; and

2. There are no other suitable child care arrangements available; and

3. The recipient agrees to accept the available and appropriate child care offered through the program. If the child care offered is refused, then the recipient must demonstrate that other appropriate child care is available and that, by exercising this option, participation in employment shall not be jeopardized. The recipient remains obligated to make the appropriate copayment for child care.



10:90-5.3 Child care for special circumstances

(a) The county agency may provide payment under WFNJ for child care in special circumstances when such care cannot be provided by another family member or responsible adult and payment for such care is not available through other sources and the 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; or
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.

(b) Payment for child care provided in special circumstances shall not exceed the maximum rates established by the Commissioner and promulgated by the DFD, and shall be limited to 60 calendar days unless extended upon request and with the approval of DFD.

(c) Authorizations for payment of special circumstance child care costs are limited to providers of child care who meet criteria for providers as established by the DHS Commissioner and provided by the DFD.

10:90-5.4 Transportation services

(a) The county or municipal agency, as appropriate, shall make all reasonable efforts to secure transportation services for WFNJ recipients who are working, looking for work, engaged in a work activity or taking WFNJ/TANF children to child care in conjunction with work or a work activity, only when all other avenues of assistance with this expense have been explored and it has been established that there are no other available sources of support.

1. Employed individuals shall receive transportation services, as appropriate, until receipt of the first full paycheck. The county or municipal agency shall, upon request and with the approval of the DFD, continue the provision of transportation services beyond this point up to one additional month after employment if, in the agency's estimation, the income received from employment is insufficient to permit the recipient to fully pay his or her own reasonable costs of transportation.

2. The county or municipal agency, as appropriate, shall make transportation services available in one or more of the following ways:

- i. Provision of public transit fare (that is, bus or train tickets, bus or train passes) to recipients in work or work activities. Fare may shall be provided prospectively or retrospectively, at the discretion of the county/municipal agency, to best facilitate the recipient's use of public transportation.

- ii. An allowance of up to \$6.00 per day may shall be offered to recipients in work or a work activity as a way

of subsidizing a recipient's transportation expenses. An amount in excess of \$6.00 per day may be provided, subject to the approval of the DFD.

- iii. Subject to written authorization from the DFD, county or municipal agencies shall partner with community transportation agencies to make all reasonable efforts to secure available transportation services through means other than those listed above, such as but not limited to, transportation brokers, third party contracts to provide van pool service, feeder service or livery service, and so forth.

10:90-5.5 Work expense allowance

(a) The county or municipal agency shall make available, as appropriate, an allowance for each assistance unit in order to cover work-related expenses necessary to engage in work or a work activity.

1. This allowance shall be limited to a lifetime maximum of \$500.00 and shall be paid for work-related expenses, such as but not limited to, clothing (uniforms), car maintenance, tools, supplies, licenses and testing fees. Subject to the approval of the DFD, an additional amount, not to exceed \$300.00 over the lifetime of the case, may be provided, based on the agency's assessment of individual needs and circumstances. The agency may provide an amount in excess of the maximum stated herein, based on the agency's assessment of individual needs and circumstances. Under no circumstances shall an additional allowance exceed \$300.00 over the lifetime of the case.

2. Subject to the approval of the Division and in the absence of any other means, a one-time moving expense allowance, not to exceed \$500.00, may be provided over the lifetime of the case when a recipient has a firm offer of employment in a location outside of the county or municipality in excess of 30 miles of the recipient's current residence and additional assistance would ensure secure that employment. This allowance is in addition to the \$500.00 authorized in (a)1 above.

10:90-5.6 Medical Support Services

(a) Medical support services are available through Medicaid for children and their parents or needy parent persons if, using the income methodologies and standards in effect as of July 16, 1996 for the Aid to Families with Dependent Children (AFDC) program (see N.J.A.C. 10:82), the family members would be eligible for the former AFDC program. In the determination of resource eligibility for Medicaid, the resource methodologies and standards applicable under WFNJ shall apply (see N.J.A.C. 10:90-3.10 and 3.20 regarding resources limits and exempt resources).

1. Application for Medicaid benefits shall be accomplished with the same application that is used to apply for WFNJ. An application for WFNJ shall be deemed to be an application for Medicaid.

2. With the exception of sanctions related to child support and paternity requirements, any sanction imposed on WFNJ recipients shall not apply to Medicaid eligibility. If a parent has refused to cooperate with child support and paternity requirements, he or she will be deemed to have failed to cooperate with Medicaid requirements relating to medical support rights and shall be ineligible for the same period that the individual is ineligible for WFNJ. In no event shall a pregnant woman be subjected to a sanction of ineligibility for Medicaid. No child shall be subjected to a penalty of ineligibility for Medicaid because of a child support and paternity sanction imposed under WFNJ.

3. Medicaid imposes no requirement that a parent-minor must live in the home of his or her own parent. Therefore, any parent-minor determined ineligible for WFNJ benefits as a result of the WFNJ cash assistance requirement, shall not be determined ineligible for Medicaid solely for that reason.

4. Any family member losing eligibility for Medicaid shall be evaluated for potential Medicaid eligibility under other Medicaid components prior to termination from Medicaid.

(b) The provisions of N.J.A.C. 10:81-8.22(a) relating to sibling, stepparent, and adolescent parent deeming apply in the determination of Medicaid eligibility.

(c) Families that would have been eligible for the AFDC program as it existed on July 16, 1996 but who would not have received a payment because the amount payable would be less than \$10.00, are eligible for Medicaid.

(d) Eligibility for Medicaid is limited to citizens of the United States and eligible aliens as specified in N.J.A.C. 10:81-3.10.

10:90-5.7 Retroactive Medicaid

(a) Retroactive eligibility for Medicaid shall be determined in accordance with N.J.A.C. 10:81-8.22(c). Eligibility for retroactive Medicaid for any of the three months prior to the month of application shall exist (assuming all other factors of eligibility are met) if the family's income, using the income methodologies and standards in effect as of July 16, 1996 for the AFDC program, would have qualified them for AFDC. In the determination of eligibility for retroactive Medicaid coverage, the resource methodologies and standards of WFNJ apply.

10:90-5.8 Medicaid Special

(a) An individual under the age of 21, whether or not he or she would qualify as a dependent child and whether or not he or she lives with his or her parents, may be eligible for Medicaid Special coverage. Income eligibility is established in accordance with and 10:81-8.23 and N.J.A.C. 10:82.

(b) For college students, eligibility is established in accordance with N.J.A.C. 10:81-8.25 and N.J.A.C. 10:82.

10:90-5.9 Medicaid extension (employment-related)

(a) Extended Medicaid benefits are available to families who lose eligibility for Medicaid due to employment-related criteria based on the income standards and methodologies in effect for the Aid to Families with Dependent Children (AFDC) program as of July 16, 1996. Thus, extended Medicaid benefits will begin with the loss of WFNJ cash assistance only when that loss was coincident with the loss of Medicaid eligibility under the July 16, 1996 AFDC income standards and methodologies.

(b) When a family with dependent children loses eligibility for Medicaid based on the income standards and methodologies in effect for the AFDC program as of July 16, 1996, for the reasons given below, Medicaid eligibility continues for a period of 24 months beginning with the month in which the family was no longer eligible under those standards and methodologies. The 24-month extension period shall begin, even though the family may continue to receive WFNJ cash assistance.

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

2. Earnings or income from employment combined with child support collections, when earnings are a significant contributing factor to case closing;

3. Loss of the \$30.00 and one-third income disregards because of the time-limited application of those disregards;

4. Increased hours of employment; and

5. Receipt of New Jersey State unemployment or temporary disability insurance benefits.

(c) New members added to a family in receipt of extended Medicaid are not included in the extended coverage, with the exception of a child born to or legally adopted by the family during the extension period.

(d) The following individuals shall not be included, or continue to be included, in the eligible WFNJ/TANF assistance unit for Medicaid extension:

1. Any child who reaches the age of 18, or if a full-time student in secondary or vocational school, until the month of graduation or attainment of the age of 19, whichever is first. Any child who is about to become ineligible due to age shall be evaluated for eligibility under other components of the Medicaid program; and

2. All other family members who are receiving Medicaid extension solely based on the presence in the home of a child who has attained the age maximums stated in (d) 1 above.

(e) When the last remaining child eligible for Medicaid extension is no longer eligible for an extension, eligibility for the other members ceases.

(f) Medicaid shall be the payer of last resort in those instances in which a recipient or his or her dependent child(ren) have third party (employer-provided or from a non-custodial parent) health care coverage.

10:90-5.10 Medicaid extension (child support-related)

(a) When a family receiving Medicaid based on the July 16, 1996 AFDC income standards and methodologies loses Medicaid eligibility primarily as a result of the collection of child or spousal support through the Child Support and Paternity process, Medicaid eligibility shall be extended for a period of four calendar months beginning with the month in which such ineligibility commences. Children may remain eligible for extended Medicaid until the attainment of age 18, or if a full-time student in secondary or vocational school, until the month of graduation or the attainment of age 19, whichever is first. Any child who is about to become ineligible due to age shall be evaluated for potential eligibility under other components of the Medicaid program.

1. In order to qualify for this extension of Medicaid benefits, the family must have received, and been eligible to receive, Medicaid (based on the July 16, 1996 AFDC income standards and methodologies) in at least three of the six months immediately preceding the month in which ineligibility for Medicaid began;

2. When the last remaining child eligible for Medicaid extension is no longer eligible for an extension, eligibility for the other family members ceases.

1. When shelter costs equal or exceed total recorded income to the WFNJ assistance unit and the recipient is unable to document other sources of income, for example, loans from relatives, which enable the individual or family to meet monthly housing/living expenses;

2. When the county/municipal agency receives information to the effect that the individual or family's utility bills are in arrearages or utilities have been shut off;

3. When the individual's or family's income is reduced as a result of the reduction in WFNJ benefits or other available income, as long as such reduction is not due to any of the situations listed in (b)2 below.

4. When the individual's or family's rent which had previously been affordable is increased to an amount which makes the current housing costs appear to exceed available income; or

5. When the county/municipal agency receives information that the individual or family is involved in a tenant/landlord dispute or threatened foreclosure.

i. When a tenant/landlord dispute or threatened foreclosure exists, the agency shall assist the family in an attempt to prevent the loss of existing permanent housing, including referral to appropriate legal/service agencies.

(b) The county or municipal agency shall provide emergency assistance when there has been substantial loss of housing, food, clothing or household furnishings by fire, flood or other similar disaster, or an actual or imminent eviction from previously affordable housing, and the assistance unit is in a state of homelessness due to circumstances beyond their control; and/or the county or municipal agency determines that the provision of shelter/housing and/or food and/or emergency clothing, and/or minimum essential house furnishings is necessary for health and safety.

1. As part of the determination of eligibility for emergency assistance, the agency shall evaluate all potential contributions of support to the household, including income received by ineligible household members, particularly when determining the amount of temporary rental assistance (see N.J.A.C. 10:90-6.3(a)5) to be provided, and the specific kinds of preventive services which may be required by the individual, couple without dependent children or family with dependent children.

2. Emergency assistance shall not be provided when an actual or imminent state of homelessness exists as a direct result of the voluntary cessation of employment by an adult household member without good cause; or an adult household member has failed to comply with other WFNJ program requirements; or an eligible household member has caused homelessness by being a disorderly tenant, wanton destruction of property or criminal activity which has directly led to eviction from housing.

SUBCHAPTER 6. EMERGENCY ASSISTANCE

10:90-6.1 Availability of emergency assistance

(a) Emergency assistance shall be made available through the WFNJ program as a supportive service to meet the emergent needs of WFNJ recipients so that recipients will not be prevented from complying with the work requirement due to disruptions caused by homelessness and related emergencies. Consequently, in an effort to minimize the incidence of homelessness among the WFNJ recipient population, the county/municipal agency shall be alert to the following circumstances which may reasonably be assumed to, if not addressed by the recipient and the agency, result in imminent or actual homelessness of the individual or family. Upon identification of any of the indicators listed below, the county/municipal agency shall review the case record to determine if the individual or family shall be referred to sources of help, either within or outside the agency, to plan to ensure the availability of uninterrupted housing.

3. Emergency assistance is likewise available in situations where there is an indication that an individual, or a parent and his or her children have left their customary residence and the unit is in a state of homelessness due to imminent or demonstrated domestic violence which imperils the health and safety of the eligible unit.

i. Temporary living arrangements during the period between the occurrence of the incidence of domestic violence and the application for EA do not negate the existence of a state of homelessness.

4. In instances where the Division of Youth and Family Services, in consultation with the county agency, certifies that placement of the children is imminent due only to the fact that the family is being subjected to a serious health or life threatening situation because of the lack of adequate housing, EA shall be provided in accordance with the applicable provisions of this subchapter.

10:90-6.2 Persons eligible for emergency assistance

Only WFNJ (WFNJ/TANF and WFNJ/GA) recipients, including those determined eligible for WFNJ benefits based on immediate need, and Supplemental Security Income (SSI) recipients, are eligible for emergency assistance.

10:90-6.3 Kinds of emergency assistance authorized

(a) The county or municipal agency is authorized to provide the following kinds of assistance to meet emergency situations when there is no other source of support available: payment for emergency shelter and emergency temporary housing; allowances for permanent living arrangements including, but not limited to, allowances for retroactive rental, mortgage or utility payments, security deposits for rent and utilities and advance rent, reasonable costs of transportation required to search for housing, reasonable costs of temporary storage of personal possessions (see (a)4iv below), moving expenses, food, clothing, and essential house furnishings.

1. The county/municipal agency shall authorize payment of the costs of adequate emergency shelter/housing, taking into consideration individual/family circumstances and services provided. Such emergency housing shall include placement in shelters; hotel/motel placement; transitional housing; or shelters for victims of domestic violence.

i. A pending eviction or foreclosure must be documented, either through a tenancy complaint filed by the landlord or an order from a court for eviction or foreclosure. Where such documentation does not exist, a letter from a landlord or other person serving in such capacity (relative/friend with whom the individual/family is residing), subject to agency verification, stating that eviction is imminent or has occurred may be accepted by the agency.

2. Emergency food allowance: When food is not available from any other source, an amount of \$4.50 per day per person shall be authorized and allowed until such time as other funds become available (for example, the next regular assistance payment, support payment, receipt of earnings or receipt of food stamps).

i. When it is necessary to provide temporary living arrangements for a recipient by utilizing emergency shelter/housing in a hotel, motel, or other facility in which cooking facilities are not available or are determined by the county or municipal agency to be inadequate, payments for restaurant meals, not to exceed \$7.50 per person per day, shall be authorized and allowed until such time as other funds become available.

3. Emergency clothing allowance: When the agency determines that they are necessary, payments to enable a recipient to purchase minimum essential clothing for physical health and safety shall be granted, not to exceed the amounts stated below.

- i. Adult—\$86.00;
- ii. Child, age 13 and over—\$86.00;
- iii. Child, age five through 12—\$48.00;
- iv. Child, birth through four—\$29.00.

4. Emergency house furnishings allowance: Allowances for those items deemed urgent and essential to the physical health and safety of the recipient shall not exceed those amounts stated at i. below. The recipient is obligated to use any other reasonable source for provision of these items, including but not limited to, relatives and charitable organizations.

i. Items deemed urgent and essential to the physical health and well being of the individual or family, as appropriate, include but are not limited to, the following: a refrigerator, a dinette set, kitchen equipment, lamps, beds, cribs, chests of drawers and bed and bath linens. A maximum allowance is provided for the purchase of such items. Payment for these items shall not be made on more than three occasions during the 60 cumulative month lifetime limit under WFNJ assistance.

No. of eligible persons:	1	2	3	4	5	6
Maximum allowance:	\$585	\$745	\$895	\$1045	\$1195	\$1365
Add \$150 for each additional person						

ii. Replacement of house furnishings is not solely limited to replacement of items lost or destroyed in the incident that gave rise to the emergency. For example, a recipient may be moving from a hotel/motel shelter or furnished apartment into an unfurnished living arrangement where there is no essential furniture. Likewise, when an item which is essential for the recipient's health and well-being, such as a refrigerator, wears out, EA funds may appropriately be used to replace it.

iii. Itemized invoices and vouchers shall be provided to the county or municipal agency for all purchases.

iv. Payment of storage costs shall be made at the most reasonable rates available and shall not exceed six months. If additional time is required due to individual circumstances, the agency shall request approval from DFD.

5. Payment may be authorized for up to any three calendar months of retroactive rental or mortgage payments and/or six calendar months of retroactive utility payments if it will make utilities operable and prevent actual eviction or foreclosure.

i. Payment for more than three calendar months of retroactive rental or mortgage payments and/or six months of retroactive utility payments may be made only under extraordinary circumstances subject to authorization by DFD.

ii. Basic utilities are those that are necessary to make a dwelling habitable. At a minimum, basic utilities shall include electric, water, a fuel source for heating and cooking and, where applicable, sewerage and garbage disposal. In those instances where it is necessary to pay a utility deposit in order to reinstate utilities, such payment may be made under EA.

6. Temporary rental assistance (TRA) may be provided, when the recipient is facing eviction, in order to maintain current permanent housing which had previously been affordable but which is no longer affordable for reasons such as, but not limited to, loss of employment, temporary unemployment or underemployment and it is anticipated that such housing will again become affordable; or when it is determined that maintaining the unit in the current housing arrangement is both the least costly alternative and serves to preserve the family structure while the search for affordable housing continues.

7. TRA may also be provided to recipients who have experienced an actual state of homelessness and are able to locate a housing arrangement or can be accommodated in a housing arrangement in lieu of temporary shelter.

i. TRA shall not be continued when an adult recipient of WFNJ benefits who has been sanctioned for noncompliance with the work requirement continues in noncompliance at the end of the first month of sanction.

ii. The county or municipal agency shall authorize TRA of up to \$250.00 monthly to supplement an EA unit's regular WFNJ benefit and/or earned income. Amounts in excess of \$250.00 require prior approval and authorization of subsidy level by DFD.

10:90-6.4 Time limitations

(a) Any emergency assistance granted shall be limited to 12 cumulative months during the lifetime of the case, irrespective of the county or municipality of residence. A

month of emergency assistance shall be any month in which a payment of emergency assistance of any kind is issued on behalf of a WFNJ TANF/GA, or SSI recipient.

1. The provision of allowances for food, clothing or single replacement items of furniture is specifically excluded from the calculation of the maximum lifetime EA allowance.

(b) Emergency housing may be extended beyond the 12-month maximum when, in the judgment of the county or municipal agency, the WFNJ or SSI recipient has taken all reasonable steps to resolve the emergent situation but the emergency nonetheless continues and termination of emergency assistance will cause or contribute to extreme hardship to the WFNJ recipient or SSI recipient.

1. The following listing is not intended to be exhaustive, nor should it be interpreted as preventing county or municipal agencies from considering other situations not specifically mentioned in the list. Nevertheless, the agency shall confer with DFD if individual and/or family circumstances which are offered as a reason for extending EA represent a departure from the categories provided herein. Termination of emergency assistance after 12 months shall be said to cause or contribute to extreme hardship if any of the following would result:

i. Termination would mean loss of employment or a bona fide offer of employment by a recipient adult; or

ii. Loss of EA would result in the immediate breakup of the family unit, with children needing to be placed in foster care; or

iii. Loss of EA would place the recipient adult or child in imminent physical danger or at risk of abuse and neglect; or

iv. Termination would constitute serious harm to persons who are clinically/medically diagnosed as mentally and/or physically incapable of caring for themselves, thereby possibly leading to inpatient hospital care or institutionalization.

(c) No more than 10 percent of single adults and couples without dependent children (WFNJ/GA) who are receiving temporary rental assistance may receive one six-month extension of emergency assistance if the agency determines that a case of extreme hardship exists, pursuant to (b)1 above.

1. The county or municipal agency shall review each such case monthly to determine if the extreme hardship continues to exist.

(d) The county agency may extend emergency assistance beyond the 12-month limit, for up to six additional months, to an assistance unit with dependent children (WFNJ/TANF) when the agency determines that a case of extreme hardship exists, pursuant to (b)1 above.

1. Each such case shall be reviewed monthly by the county agency to determine if the extreme hardship continues to exist.

2. If, at the end of the first six-month period, extreme hardship continues to exist in an assistance unit with dependent children, the county agency may provide an additional six months of emergency assistance to no more than 10 percent of those assistance units with dependent children who are currently in receipt of temporary rental assistance.

3. County or municipal agencies may extend emergency assistance beyond the 12-month limit to recipients who are diagnosed as HIV positive with symptoms or who have active AIDS, or are terminally ill and are unable to perform activities of daily living, up to a maximum of 12 additional months.

10:90-6.5 Recipient contribution

(a) Recipients of emergency assistance shall contribute from their income towards payment of all emergency shelter arrangements, including all forms of temporary housing and temporary rental assistance.

1. If cooking facilities are not available in temporary housing, or are determined inadequate by the agency, the recipient shall contribute 50 percent towards the cost of temporary housing.

2. If temporary housing contains cooking facilities, the recipient shall contribute 65 percent towards housing costs.

3. Where applicable, the county or municipal agency shall deduct the monthly contribution from the WFNJ benefit. In cases where there is earned or unearned income (for example, SSI), and the entire contribution cannot be provided through the WFNJ payment system, the county or municipal agency shall advise the recipient of his/her obligation to pay the appropriate portion towards housing costs directly to the shelter operator, hotel/motel manager or landlord.

4. The county or municipal agency shall begin deducting the monthly contribution in the first full month following the month in which payment of emergency assistance has been authorized.

10:90-6.6 Recipient/agency responsibilities

(a) The county/municipal agency shares responsibility with the individual/family in receipt of emergency assistance to resolve the emergency situation and to assist the individual/family to secure a suitable permanent housing arrangement. Receipt of emergency assistance is contingent upon the recipient's taking reasonable steps toward resolving the emergent situation. Reasonable steps shall include the recipient's signature on a written notice of recipient responsibilities while receiving temporary housing/shelter; participation in formulating, complying with and carrying out a plan for service; fulfilling the number of housing searches mutually agreed upon; and following agency recommendations related to resolving the emergent situation. Failure to substantially comply with the service plan will result in termination of EA. In no case shall the EA granted exceed the limits set forth in N.J.A.C. 10:90-6.4 concerning time limits and extensions in situations of extreme hardship.

1. The service plan shall be developed between the county or municipal agency and the recipient of emergency assistance within 10 days of the EA authorization date in order to provide a plan of action aimed at working toward securing permanent shelter and also, where directly related to securing such shelter, at resolving the circumstances that contributed to the emergency situation. When appropriate, development of the service plan shall be coordinated with the development of the Individual Responsibility Plan (IRP) discussed in N.J.A.C. 10:90-4.8; every effort shall be made to avoid situations in which the development of one plan infringes upon the development of the other, thereby placing the recipient in danger of being sanctioned due to noncooperation. The service plan shall include but is not limited to:

i. Selection of a housing arrangement which takes into consideration the recipient's circumstances, such as mental or physical problems.

(1) Every effort will be made to locate suitable housing in the community of prior permanent residence. If, however, shelter/housing is not available at the most reasonable rate, taking into consideration individual circumstances and services provided, within the municipality of customary residence, the recipient, as a condition of eligibility, shall be obliged to accept shelter/housing outside the municipality of customary residence.

ii. Provision of the following specified services:

(1) Information;

(2) Referral;

(3) Assistance in securing shelter, including transportation;

(4) Assistance in arranging for child care; and

(5) Referral for legal services.

iii. Referral to affordable housing (if known) as well as referral to and/or application for other available benefits or services;

iv. The requirement to engage in employment and work-related activities.

2. The county or municipal agency shall monitor compliance with the service plan at least quarterly.

3. The county or municipal agency shall reevaluate and/or revise the service plan as warranted by changes in the recipient's shelter needs and/or other pertinent circumstances.

i. When emergency assistance has been extended beyond the 12-month maximum found at N.J.A.C. 10:90-6.4(a) above for either an initial period of six months or a second period of six months (applicable to WFNJ/TANF recipients only), the service plan must be revised in order to address the special circumstances which have contributed to the hardship which caused the extension.

10:90-6.7 Payment for emergency shelter

(a) The county or municipal agency shall issue payment for emergency shelter in accordance with the schedule of per diem rates established and published by the Commissioner of DHS and provided by DFD.

(b) The county or municipal agency shall issue payment for emergency shelter provided by participating shelters, hotels or motels commensurate with the level of enhanced services provided and approved in accordance with per diem rates established for such participating facilities by the Commissioner of DHS and provided by DFD.

10:90-6.8 Intercounty/municipality transfer of EA cases

(a) Whenever a single adult, or a couple without dependent children or family with dependent children requiring the provision of EA benefits moves from one county or municipality (WFNJ/GA only) to another, the following provisions shall apply:

1. When the county or municipality of origin (that is, the county or municipality that granted the emergency assistance benefit) places the individual or family in out-of-county/municipality emergency housing, the county/municipality of origin shall retain financial responsibility for the shelter payments, regular assistance payments and issuance of food stamp benefits, if applicable, as well as other monitoring functions until the homelessness is resolved or permanent housing is obtained. If mutually agreed upon by the two counties or municipalities, the new county or municipality of residence may assume full responsibility for administration of the case, provided transfer requirements promulgated by DFD have been fulfilled.

2. When an EA recipient residing in one county or municipality voluntarily takes up residence in another county or municipality, without county or municipal agency intercession, the new county or municipality of residence shall assume responsibility provided the client remains eligible for EA payments, as well as all other monitoring requirements, including any cash assistance benefits, pursuant to transfer requirements promulgated by DFD. The recipient must apply for cash assistance in the new county or municipality and, for food stamps, in the new county. The time requirements for such transfers as found at N.J.A.C. 10:90-7 shall apply.

3. When a WFNJ recipient voluntarily moves from one county or municipality to another, with or without county or municipal agency intercession, and a subsequent change in circumstances results in the need for EA, the new county or municipality of residence shall immediately assume responsibility to determine eligibility for EA payments, as well as all other monitoring functions, pursuant to case transfer provisions at N.J.A.C. 10:90-7.

4. Any case transfer management disputes which cannot be resolved locally shall be referred to DFD to determine which county or municipal agency has responsi-

bility for administration of the case. The decision of DFD shall be considered final and binding upon all parties involved.

SUBCHAPTER 7. ADDITIONAL AGENCY RESPONSIBILITIES

10:90-7.1 Establishment and maintenance of case records

(a) The case record is the official file, whether computerized or hard copy, of forms, chronological narrative, correspondence and other documents pertinent to the application and determination of eligibility for WFNJ benefits. It constitutes a complete record of the county/municipal agency's decisions and actions concerning eligibility for assistance in each case. Since it is the record on which decisions to grant, deny or continue assistance in accordance with law and regulations are made, it is mandatory that a case record be established and maintained for every individual who applies for and/or receives WFNJ benefits.

1. Records shall also be established and kept when emergency assistance or service payments are made to or on behalf of SSI recipients. Records shall likewise be established when burial expense payments are made on behalf of non WFNJ recipients pursuant to the listing of persons who may be eligible for such payments as found in N.J.A.C. 10:90-8.2.

(b) The case record shall be kept confidential as described in N.J.A.C. 10:90-7.7.

(c) It is the right of every applicant for or recipient of WFNJ or his or her authorized representative to review the contents of his or her case file. Applicants or recipients or their authorized representatives shall make an appointment with appropriate agency staff when review of the case file is desired so that the review may take place at the convenience of all the parties. Requests for review shall be responded to in a reasonable amount of time. See N.J.A.C. 10:90-9.11 concerning access to the case file and related documents prior to a fair hearing.

10:90-7.2 Contents of the case record

(a) The validity of all case action rests primarily on the corroborating data in the case record, whether computerized or hard copy. The following items shall be part of the case record:

1. All completed forms necessary for the appropriate assistance programs;
2. A record of any contact with the WFNJ client and a summary of the information obtained;
3. All related referrals, correspondences, memoranda and documents, except those which are required by law or regulation to be maintained in some other files; and

4. A record of all pertinent verifications, such as, but not limited to, birth certificates, Social Security numbers, driver's licenses, and so forth.

10:90-7.3 Maintenance, custody, movement and transfer of case records

(a) The county/municipal agency shall maintain an up-to-date record of all cases of recipients approved to receive assistance while out of the State.

(b) There shall be a supervisory review of the status of these cases to assure that no payments are issued beyond the period for which approval has been given, unless and until an extension of continued assistance is approved by the DFD, and that payments are terminated when and if eligibility ceases.

(c) Recipients who are receiving assistance out-of-State shall be afforded the same full advance notice, including information about their hearing rights, in accordance with present policy. A copy of any such notice shall be sent to any out-of-state agency with which there has been communication regarding the case.

(d) Responsibility for WFNJ benefits shall be transferred from one county/municipality to another when a recipient/family moves to another county/municipality.

(e) A temporary visit by the assistance unit shall not be considered to be a change of county/municipal residence until that visit has continued for more than a one-month period.

(f) Those WFNJ/TANF cases which receive Medicaid or Medicaid extension only shall also be transferred to the new county of residence in the same manner as active WFNJ/TANF cases when the family moves from the county of origin.

(g) The well-being of recipients shall not be adversely affected by a transfer from one county/municipality to another and their right to uninterrupted assistance shall not be prejudiced by any disagreement that arises between the county/municipality of origin and the receiving county/municipality.

(h) Any case transfer management disputes which cannot be resolved locally shall be referred to the DFD to determine which county/municipal agency has responsibility for the case. In such instances, the decision of the DFD shall be considered final and binding on all parties involved.

10:90-7.4 Issuance of photo identification cards and fingerimaging

(a) Each WFNJ/TANF adult recipient and WFNJ/GA recipient shall be required, as a condition of eligibility, either to participate in the fingerimaging process or to accept a photo identification (ID) card, as appropriate, and agree to be photographed for the purpose of placing a photo on an ID card unless refusal to do so is based on the reasons found in (e)3 and 4 below.

(b) Until the electronic benefit transfer system (EBT) has been implemented Statewide, the county and municipal agency shall continue to issue a photo ID card to each assistance payee. Once a county/municipality begins to implement the EBT system, the county/municipal agency shall no longer be required to issue a photo ID card to each adult recipient but will have the option of continuing the issuance of photo ID cards separate from the EBT cards. The photo ID card shall be used as proof of eligibility and to make check cashing possible.

(c) The county/municipal agency shall establish a procedure for completion of the ID card that shall ensure that the WFNJ recipient need make only one visit to the agency for that purpose.

(d) Each photo ID card shall, at a minimum, include the name, case number, color photograph and signature of the recipient. The county/municipal seal or other type of logo produced via a validation plate shall overlap upon the ID card and the photo to preclude substitution of the photo.

(e) If the payee in the assistance unit refuses to accept the ID card or refuses other than for reasons of religious belief or disfigurement (see (e)3 and 4 below) to be photographed for the purpose of placing a photo on an ID card, the following shall apply to families with children:

1. If there is only one adult in an assistance unit with dependent children, that individual shall be considered ineligible for assistance and any WFNJ benefits to which the children in the assistance unit are entitled shall be issued in the form of protective payments (see N.J.A.C. 10:90-3). The ineligible adult may not be named as payee.

2. If there are two adults in the assistance unit with dependent children, the other adult shall be given the opportunity to become the payee, be photographed and accept the ID card. If the other adult also refuses to be photographed and/or accept the ID card, both adults shall be considered ineligible for WFNJ benefits and any benefits to which the remaining members of the assistance unit are entitled shall be issued in the form of protective payments. Neither ineligible adult may be named as protective payee.

3. In instances where a recipient payee's religious beliefs do not allow the taking of his or her photograph, the payee may accept an ID without a photograph.

4. In instances where a recipient payee does not wish to be photographed because of disfigurement, the payee may accept the ID card without a photograph.

5. Where a protective payee has been appointed, such payee may elect to either accept or refuse an ID card, with or without a photograph. This equally applies to non-needy parent persons and SSI recipients.

10:90-7.5 Lost or stolen assistance checks

(a) Upon notification from a recipient that his or her WFNJ benefits have been lost or stolen, the county/municipal agency will shall immediately secure the recipient's affidavit of the facts and circumstances and will shall file a stop payment order with the bank. Within 10 working days the county/municipal agency will either issue a duplicate check or provide written notice that the check will not be replaced. The notice will be provided in accordance with N.J.A.C. 10:90-9 concerning notices and fair hearings.

(b) The county/municipal agency may decline to issue a replacement check when any of the following exists:

1. The payee of the check fails or refuses to make a report to the local police about a stolen check or fails or refuses to cooperate in a police investigation;
2. The payee of the check fails or refuses to provide an affidavit of the facts and circumstances of the loss or theft;
3. The endorsement on the original check is certified to be that of the payee by a person qualified to present expert testimony in handwriting analysis before the New Jersey courts. Such expertise may be available through or from the New Jersey State Police, the Office of the Attorney General, a county prosecutor, a member of the American Society of Questioned Document Examiners or a member of the National Association of Document Examiners; or,
4. The identification of the person cashing the original check as the payee or representative of the payee is convincingly established by one or more mechanical or procedural methods such as a photograph, a videotape, or the recording at the time of the transaction of the number of an ID card which has not been reported lost or stolen.

(c) In any situation in which an original check is later returned bearing the true endorsement of the intended payee, the agency shall honor the check, even though a stop payment order may have interfered with its negotiation, provided 10 calendar days prior to honoring the check the intended payee is afforded advance written notice and an opportunity to contest the intended action. The county/municipal agency shall refuse to honor an original check which is returned without the true endorsement of the intended payee, the effectiveness of a stop payment order notwithstanding.

(d) In any situation in which the issuance of a duplicate check in accordance with (a) above produces a payment in excess of authorized amounts, the agency shall observe N.J.A.C. 10:90-3 and 11, as appropriate.

(e) County agencies currently issuing benefits by way of the electronic benefit transfer (EBT) system shall continue to follow the policies and procedures governing the replace-

ment of benefits and EBT cards as found in N.J.A.C. 10:88-6.

10:90-7.6 Reporting of child abuse and neglect

County and municipal agencies are required by State law to report known or suspected instances of or risk of child abuse and neglect of a child to the Division of Youth and Family Services. Instances of abuse or neglect involve situations where a child experiences physical or mental injury, sexual abuse or exploitation or negligent treatment or maltreatment under circumstances which indicate that the child's health or welfare is threatened.

10:90-7.7 Confidential nature of information

(a) Information about applicants for or recipients of WFNJ benefits shall be used or disclosed only for purposes directly related to the administration of public assistance and related services, including Title IV-E (foster care and adoption assistance programs), HUD Section 8 housing, school lunch programs, which cannot be offered without such information. County/municipal officials and appointees, members of the governing body and county/municipal employees not under the jurisdiction of the county/municipal agency director are not permitted access to public assistance records.

1. Any person or entity under contract to provide services to the program shall comply with these regulations.
2. The provisions of this section shall not be construed as prohibiting the exchange of information among agencies, organizations or other entities as prescribed by the Commissioner or pursuant to Federal requirements.

(b) Information considered confidential includes but is not limited to the following:

1. Names and addresses, including lists; and
2. Information contained in applications, reports of investigations, reports of medical examinations, correspondence, evaluations (whether written or verbal), and other records concerning the condition or circumstances of any person from whom or about whom information is obtained.

(c) The county/municipal agency director is authorized to release, subject to the consent of the client or as prescribed by the DHS Commissioner or required pursuant to Federal rules, relevant and necessary information under the following circumstances:

1. For clearances on applications and cases with social service agencies, banks, Bureau of Vital Statistics, insurance companies, and so forth;
2. To procure a service or benefit for the client; or
3. To provide necessary information to agencies sub-contracted to provide services and/or benefits to clients.

(d) Recipient address information shall be furnished to State and local law enforcement officials attempting to locate a fugitive felon (see N.J.A.C. 10:90-2.8 concerning fugitive felons). Likewise, pursuant to P.L. 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, the safeguards listed in this section shall not prevent a county/municipal agency from furnishing a Federal, State, or local law enforcement agency with the current address of any recipient, if the agency provides the county/municipal agency with the name of the recipient and notifies the county/municipal agency that the information is necessary for the law enforcement agency to conduct official duties and the location and apprehension of the recipient is within such official duties.

(e) Information concerning applicants or recipients shall also be released to the Division of Youth and Family Services in instances involving child abuse and neglect as described in N.J.A.C. 10:90-7.6.

(f) Any member of the county/municipal agency staff called to testify and/or produce agency records in conjunction with a judicial or quasi-judicial proceeding shall confer with county/municipal agency legal counsel concerning the nature of testimony and the provision of records to the court.

(g) Information necessary to the performance of quality assurance reviews, regular or special audits by State staff or a municipality's registered municipal accountant (RMA) shall be released.

1. County and municipal agencies shall cooperate in any quality assurance reviews conducted by staff of the DFD. Failure to do so shall result in the imposition of penalties as prescribed by the DFD.

10:90-7.8 Settlement of suits and claims

(a) Pursuant to P.L. 1997, c.38, upon liquidation of a claim or interest (other than liquidation of nonexempt real property) for which a written promise to repay has been executed, regardless of whether or not the person(s) involved are receiving assistance at the time, the county or municipal agency shall notify the person(s) of its claim and pursue repayment of the assistance granted from the date of eligibility for that payment, with the exception of any portion of a personal injury award which a court specifically awards to a child to make the child whole as a result of an injury, or any other benefits specifically protected by law, such as SSI retroactive awards unless they are subject to interim assistance agreements.

1. Nothing in these rules shall be held as preventing the county/municipal agency from moving to recover assistance granted from other sources, such as but not limited to, payments in the nature of a windfall, such as inheritances, lottery, casino and racetrack winnings. It shall be the county/municipal agency's decision to regard such funds as either lump sum income pursuant to N.J.A.C. 10:90-3 or subject to the rules of this section, less any portion which has been disregarded in order to purchase items which are integral to promoting self-sufficiency.

(b) Whenever the county/municipal agency ascertains that a recipient or former recipient, living or dead, of WFNJ/TANF or WFNJ/GA, or any of its predecessors, including a child who dies prior to his or her 21st birthday and leaves an estate, has real or personal property above what is necessary for his or her maintenance and the maintenance of a spouse or minor children, the agency shall move, in reliance upon established legal procedures, to recover all assistance paid. The county/municipal agency's claim shall take priority over all other unsecured claims, except for reasonable funeral expenses and terminal medical and hospital expenses. Life insurance upon the life of the former recipient is includable as property to be claimed for repayment, if the terms of the policy permit, when the proceeds of the insurance are not needed for expenses of the last illness and funeral expenses of the former recipient or for support of a widow(er) or minor children of the recipient.

(c) If a person refuses to repay assistance granted pending liquidation of a claim or interest, including refusal by any party acting for or on behalf of either or both parents or relative, the county/municipal agency shall take all necessary and proper action under State law to enforce the promise to repay, including the withholding of benefits from the uncooperative individual(s) for as long as the refusal to repay persists.

(d) Any partial or initial payments made to the county/municipal agency from the settlement of a claim or interest made by or on behalf of a single adult, couple without dependent children, either or both parents or caretaker relative, subsequent to notice of claim and prior to express written approval by the county/municipal agency, shall obligate that person to the county/municipal agency in the amount of the payment.

(e) The county/municipal agency may, with the consent and approval of the DFD, compromise and settle any claim for repayment of WFNJ benefits or its predecessors. Primary consideration shall be given to whether or not release of the funds will promote the goal of self-sufficiency, if this consideration is appropriate under the circumstances.

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

10:90-8.1 Payment of funeral and burial expenses

(a) Payment of funeral and burial expenses may be provided for recipients of WFNJ and certain others as identified in this subchapter. Payments for such expenses are not a benefit automatically payable at death, but are a means of supplementing the resources, when available, of the deceased recipient, of his or her family, including voluntary contributions.

(b) Payment, if issued, shall be made by the chargeable county or municipal agency which occurs first in the following order: the agency which granted assistance for the month in which the person died; the agency which would, but for the death, have made the next grant of assistance; the agency which made the most recent grant of assistance; or the agency which took an application for assistance and had determined the person eligible but had issued no benefits prior to death.

(c) It is recognized that municipal agency directors, who are also exercising the functions previously charged to the overseer of the poor, encounter situations where burials must be provided at public expense for persons who do not come within the classifications specified in N.J.A.C. 10:90-8.2. Such burials are governed by statutes unrelated to the WFNJ/GA program. State aid cannot be used to pay for these burials. The statutes applicable to this situation include N.J.S.A. 44:1-157 and N.J.S.A. 40A:9-49.1.

10:90-8.2 Persons who may be eligible

(a) Claims for funeral and burial expenses may be received and considered with respect to:

1. A person who was in active receipt of assistance at the time of death, including WFNJ/TANF, WFNJ/GA and Supplemental Security Income (SSI) benefits;
2. A person for whom eligibility can be otherwise determined, provided that an application for assistance was made prior to death. This includes stillborn infants and deceased newborns who would have been included in a previously existing WFNJ case. It also includes parents and infants for whom application for WFNJ had been made in anticipation of eligibility at the birth of a child;
3. A person whose eligibility had been established within 15 calendar days prior to death, but for whom no payment of WFNJ/GA had been issued;
4. A former recipient of WFNJ or its predecessors whose admission to any public institution within this State, other than a penal or correctional institution, was the only reason for the suspension or termination of the assistance payment, and whose death occurred within six months of confinement to such institution;
5. A person who died while a patient in a general hospital and who had been receiving WFNJ/GA at the time of admission to the hospital;
6. Recipients of Medicaid Only residing in the community and in Title XIX (Medicaid approved) facilities;
7. Recipients of Medically Needy benefits in nursing homes;
8. Recipients of SSI who were in hospice care programs;
9. Individuals in Alternative Family Care (ACF);

10. Recipients of the Community Care Program for the Elderly and Disabled (CCPED);

11. Individuals who died while satisfying a WFNJ sanction;

12. Children who are subject to the family cap provisions of the WFNJ program and its predecessors; or

13. Recipients of the AIDS Community Care Alternative Program (AACAP).

10:90-8.3 Funeral and burial contracts

(a) The right and responsibility to arrange and contract for funeral and burial services rests with the next of kin of the decedent. In the absence of any next of kin, arrangements may be made by any interested party such as a friend, member of the clergy, or nursing home or hospital administrator. These regulations shall not control or impair a contract between a funeral director or next of kin or other party except to the extent that the contract shall not result in a claim against the county or municipal agency or against any assets legally owed to the agency.

1. In the complete absence and only in the complete absence of any next of kin and when no other person is available to make the arrangements, the county or municipal agency may do so. The availability of funds is not to be a factor in determining whether or not the agency will make the arrangements. The county or municipal agency will select funeral directors for such contracting in consultation with the county association of funeral directors.

i. A contract negotiated by a county or municipal agency shall be in accord with all parts of these regulations, including the cost, even though the cost may not be met from public funds.

ii. A contract negotiated by a county or municipal agency may be concluded orally but shall be confirmed by letter from the county or municipal agency to the funeral director.

(b) Regardless of whether or not it is one of the contracting parties, the county or municipal agency shall not authorize any cremation. Nor shall it authorize any postmortem examination or any other procedure which is not a part of regular funeral and burial services.

10:90-8.4 Definitions and conditions

(a) When either of the contracting parties contemplates that a county or municipal agency will be asked to pay any part of the cost of a funeral and burial or cremation, either or both parties shall notify and consult with the county or municipal agency before the services take place. The probable allowance or disallowance of the claim shall be discussed at that time, but the agency is under no obligation to make a commitment of payment. The requirement of prior notice may be waived by the county or municipal agency

upon a showing of good cause (as determined by the agency) which is not prejudicial to the validity of the claim.

1. If, however, the religious traditions of the decedent mandate that burial must occur within a timeframe which will not permit prior notice due to closure of the county or municipal agency on weekends or holidays, either or both of the contracting parties shall be permitted to notify the appropriate agency of the anticipated petition for payment on the first business day following the day of burial.

(b) Rules concerning the submission of petition for payment are the following:

1. The funeral director or other claimant shall, within 30 calendar days following burial or cremation, submit to the county or municipal agency a petition on Form WFNJ-11, or a substantially similar document acceptable to the agency, which certifies to services rendered, to payments contracted, received and expected; and to compliance with all applicable rules and regulations. Petitions submitted beyond the 30 calendar day period may be considered upon a showing of good cause (as determined by the agency) which is not prejudicial to the validity of the claim.

2. A claim filed with a county or municipal agency for funeral, burial or cremation is not a demand for payment owing under a contract but is merely a petition for an allowance to be granted or denied consistent with these regulations. It has the effect of a demand, however, when the agency was the contracting party.

(c) The combined resources of a decedent means the aggregate net total of all of the following:

1. Cash on hand or in the hands of others as property of the decedent including personal needs accounts in long term care facilities (but excluding cash in the custody, possession or control of the county or municipal agency);

2. Other resources, such as securities, real estate, antique furniture and automobiles;

3. Life insurance or death or funeral benefits from public or private sources which have been received, or which are receivable by the estate of the decedent, by the decedent's spouse, children, father, mother, or any other beneficiary because of the death of the decedent;

4. Payments of the same nature as in (c)3 above which have been received by or which are receivable by any other person excepting such amounts as are lawfully claimed and proven by such person as a claimant for equitable refund of premiums paid;

5. Sums which have been paid or are promised to be paid on account of the death of the decedent by any other person or organization excepting such sums as have been paid or will be paid to the agency; and

6. Funds owed the decedent at the time of death.

10:90-8.5 Authorization of payment

(a) The allowance for funeral services, exclusive of cemetery costs, is the total amount charged or \$1,970, whichever is less. When ground burial is made of the remains, the cemetery allowance also applies. The cemetery allowance is the sum of all cemetery charges or \$460.00, whichever is less. The maximum total of allowances for a decedent is the sum of the funeral allowance and the cemetery allowance, as applicable.

1. The county or municipal agency may, in any case in which it determines that any of the resources in N.J.A.C. 10:90-8.4(c) should be waived or omitted to avoid hardship or inequity, present a recommendation to the DFD for disposition.

(b) The payment to be made is the maximum total of allowances as reduced by the combined resources of the decedent. Contributions from next of kin and interested parties above and beyond those listed at N.J.A.C. 10:90-8.4(c) shall be used to further reduce the payment only if the total amount of such contributions exceeds \$1570.

(c) Payments shall be made first from any funds received by or designated for the county or municipal agency pursuant to these regulations from or on behalf of the decedent and secondly, if necessary, from assistance funds.

10:90-8.6 Time of payment

(a) The amount to be allowed on any claim shall, in the absence of known irregularity, be paid as promptly as possible after such amount is determined and, in any event, within 30 calendar days thereafter. The county or municipal agency shall provide notice of its determination to all parties to the funeral contract and to any others who have both a need for the information and the right to receive it.

1. In the event that a determination cannot be made within 10 calendar days after receipt of a petition for payment solely because information about a determination of eligibility for payment of death benefits by one or more other agencies is not available, the county or municipal agency shall make a tentative determination based on the assumption of favorable action by the other agencies. The county or municipal agency will remit the difference within 30 calendar days following the tentative determination. Upon receipt of information about the determination(s) of the other agencies, the county or municipal agency shall make a final determination and remit any balance due to the petitioner within 30 calendar days of the final determination.

10:90-8.7 Irregularities

(a) In the event of a dispute or disagreement about a claim which cannot be readily resolved between the agency and the claimant, the county or municipal agency shall submit the matter to the DFD for review and advice.

(b) In the event that the county or municipal agency becomes aware of the filing of any claim for payment with another person or agency which is in duplication of or is inconsistent with any claim received by the county or municipal agency, the agency shall:

1. Advise the other person or agency of the circumstances and take all appropriate steps to assert and secure the county or municipality's rights; and
2. In the absence of a prompt local resolution of the matter, report it to the DFD for review and advice; and
3. Determine whether any violation of a criminal nature may have occurred and, if so, report the matter in writing to the County Prosecutor.

(c) In the event that the county or municipal agency later learns of the existence of resources which should have been available but were not known or made available, the county or municipal agency shall immediately take all appropriate steps to secure its rights to refund or recovery.

viii. The name, address and phone number of the legal services office, where available.

(b) An adverse action is an action to deny an application for assistance, or to terminate, suspend or reduce assistance (including service payments or Medicaid entitlement) or to change the manner or form of payment to a protective, vendor or two-party payment. When the county or municipal agency intends to take an adverse action, it shall give both timely and adequate notice to the recipient.

1. A timely notice is a notice that is mailed to the recipient at least 10 calendar days before the effective date of the action.

(c) When a county or municipal agency decision results in an adverse action to a recipient, there will be no change in the amount of benefits until 10 calendar days after the mailing date of the notice, unless assistance had been granted based on immediate need;

(d) Timely notice may be dispensed with but adequate notice shall be sent not later than the effective date of the action when:

1. The county or municipal agency has information confirming the death of a recipient or of the payee when there is no relative to serve as the new payee;

2. The county or municipal agency receives a clear written statement signed by a recipient that he or she no longer wishes to receive assistance, or that provides information which requires termination or reduction of assistance. In such instances, the recipient must indicate, in writing, that he or she understands that supplying such information will result in a reduction or loss of assistance;

3. The payee has been admitted or committed to an institution, and payments to that individual are no longer permitted under State law;

4. The recipient has been placed in a long term care or intermediate care facility, or is hospitalized;

5. The recipient's whereabouts are unknown and the county or municipal agency mail directed to him or her has been returned by the postal service indicating no known forwarding address. The recipient's benefit must, however, be made available to him or her if his or her whereabouts become known during the payment period of issuance covered by the returned check, unless 5i below applies.

i. The recipient moves out-of-state, with apparent intent to remain permanently absent from New Jersey;

6. A recipient has been accepted for assistance in another state and that fact has been established by the county or municipal agency previously providing assistance;

7. An eligible child is removed from the home as a result of a judicial determination, an intervention by the

SUBCHAPTER 9. NOTICES AND HEARINGS IN WFNJ

10:90-9.1 Notice to applicant/recipient

(a) The county or municipal agency shall provide adequate notice to an applicant for or recipient of WFNJ benefits of any action to be taken that affects the applicant's or recipient's benefits.

1. An adequate notice is a written or computer generated notice that includes the following:
 - i. The action the county or municipal agency intends to take;
 - ii. The reasons for the intended action;
 - iii. The specific regulations supporting the intended action;
 - iv. An explanation of the individual's right to request a fair hearing;
 - v. An explanation of the circumstances under which assistance is continued if a hearing is requested;
 - vi. An explanation of the requirement to repay assistance received during the period pending the hearing, if the action is upheld;
 - vii. If the English version of the notice is not available in Spanish the notice shall contain a sentence in Spanish cautioning the individual that the notice relates to a change in his or her grant and if he or she does not understand the notice, he or she should contact the county or municipal agency; and

Division of Youth and Family Services or is voluntarily placed in foster care by his or her legal guardian;

8. An additional payment or special allowance granted for a specific period is terminated and the recipient has been informed in writing at the time of initiation that the allowance shall automatically terminate at the end of the specified period, including such payments as directed by a final hearing decision;

9. A recipient has incurred a WFNJ sanction and the sanction is progressing to the next level within the sanction (whether first, second or third offense or subsequent sanctions) based on continued refusal to comply;

10. Assistance is reinstated in the corrected amount following suspension;

11. An application for assistance is being denied and no assistance payment has been issued, or assistance had been granted based on immediate need;

12. Assistance is terminated due to an individual's receipt of SSI, RSDI or unemployment benefits;

13. The WFNJ/GA recipient is confined to jail for a period in excess of seven calendar days.

10:90-9.2 Definitions related to hearings

The following words and terms, when used in this subchapter, shall have the following meaning unless the context clearly indicates otherwise.

"Administrative hearings" are hearings concerning either contested cases or non-contested cases, which have been determined by the Director of the Division of Family Development (DFD) in accordance with N.J.A.C. 1:1-1 et. seq., to be appropriately heard in the Office of Administrative Law (see N.J.A.C. 10:6).

"Administrative Law Judge" (ALJ) means the person from the Office of Administrative Law (OAL) who conducts the hearing and who writes an initial decision which may be reviewed by the Director of the DFD.

"Administrative review" means a review of a disputed matter which has been determined by the Director of the DFD not to constitute a contested case and therefore remains in the DFD for review. At the discretion of the Director, an administrative review may be conducted as a procedure at which parties appear and are heard or it may be a paper review only (see N.J.A.C. 10:6-2).

"Administrative review official" is a representative of the State, Department of Human Services, assigned to conduct an administrative review.

"Contested case" means a dispute that is heard by an Administrative Law Judge. (For statutory definition see N.J.S.A. 52:14B-2(b); see also N.J.A.C. 1:1-1.5 and 1.6.).

"Fair hearing" means a formal or informal procedure through which a WFNJ recipient may protest an adverse action or decision of the county/municipal agency regarding eligibility, amount or manner of granting assistance. Fair hearing is a general term which includes administrative hearing and administrative review at the State level, as well as a local hearing proceeding convened by a municipal agency at the request of a WFNJ/GA recipient.

"Initial decision" means the decision of an ALJ that is sent to the Director of the DFD, who may accept, reject or modify it within 45 days.

10:90-9.3 Right to a fair hearing

(a) It is the right of every applicant for or recipient of WFNJ adversely affected by an action of a county or municipal agency to be afforded a fair hearing in a manner established by the rules in this subchapter and by the Uniform Administrative Procedure Rules of Practice (N.J.A.C. 1:1-1.1 et seq.). These rules have been established pursuant to Federal regulations, and the New Jersey Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.).

(b) County or municipal agency actions which adversely affect an applicant or recipient include:

1. Any action, inaction, refusal of action, or unduly delayed action with respect to program eligibility, including denial, termination or suspension of benefits, adjustment in the level of benefits or work requirements, or designation of a protective payee.

(c) No fair hearing will be granted when either State or Federal legislative action which affects all or part of a recipient population results in the reduction or termination of assistance, unless the reason for an individual appeal is incorrect grant computation.

(d) The notification of the right to a fair hearing shall be incorporated in or attached to each adverse action notice (denial, termination, reduction, suspension). The notice shall include an explanation of how to request a fair hearing, time limits on requesting a hearing, the right to examine evidence and the circumstances under which benefits are continued unreduced.

(e) When a request for a fair hearing is made within 15 calendar days from the date of mailing of a notice of termination, suspension or reduction, benefits shall be continued at an unreduced level until the scheduled date of the administrative hearing or the date of the administrative review, unless the recipient waives such entitlement or requests postponement of the scheduled hearing or review date. In the event the recipient elects to receive continued benefits, they shall be continued unreduced pending a final decision.

(f) An adjournment of a hearing at the request of a recipient shall not prolong continuation of benefits at an unreduced level, unless the adjournment is due to: delay caused by the DFD, OAL or the county/municipal agency; unavoidable causes, such as an illness on the part of the recipient or the failure of the agency to provide transportation when such assistance is required by regulations. Adjournment at the request of the county/municipal agency or by the ALJ shall not affect continued benefits.

10:90-9.4 Rules applicable to WFNJ/GA applicants/recipients

(a) With the exception of hearing requests related to a denial, reduction or termination of emergency assistance granted under N.J.A.C. 10:90-6, (refer to N.J.A.C. 10:90-9.17(a)1 for additional exceptional circumstances), applicants for or recipients of WFNJ/GA shall receive a local hearing regarding any action or inaction of the county/municipal agency as specified in N.J.A.C. 10:90-9.3(b)1. See N.J.A.C. 10:90-9.10 concerning time limitations on entitlement to fair hearings.

(b) The hearing officer at the local hearing shall be the municipal agency director, or, as appropriate, a person designated by the county agency director to conduct such a hearing, unless he or she has participated in the action or inaction which gave rise to the hearing request.

1. If the director has been thus involved, the director will select a hearing officer who has not been involved. The selection will be made from among the following in order of priority:

- i. A professional staff member of the agency; or
- ii. A member of the Local Assistance Board (LAB) other than an elected official as designated by the LAB; or
- iii. With the advice and consent of the LAB of the municipality of the hearing, a director of another municipality, or a professional staff member of supervisory rank of the municipal agency of another municipality.

2. The local hearing shall be conducted and a decision rendered in accordance with procedures established by the DHS Commissioner and provided to municipal agencies by the DFD. The decision in the local hearing shall be rendered by the local hearing officer within 10 working business days following the hearing.

10:90-9.5 Responsibilities of the county/municipal agency in processing hearing requests

(a) To assure orderly and expeditious processing of complaints and hearing requests, each county agency will designate a liaison between the agency and the DFD whose duties shall include but not be limited to the following. These duties shall likewise apply to the municipal agency director when a WFNJ/GA recipient has requested a State

fair hearing under the circumstances listed in N.J.A.C. 10:90-9.10.

1. Informing the Bureau of Administrative Review and Appeals (BARA) by telephone or FAX on the same day in which an oral or written request for a hearing is received, providing BARA with the following information:

- i. Case number, name, address;
- ii. Date request received;
- iii. Nature of contested action;
- iv. Date of action; and,
- v. Reason for action.

2. Establishing a system to assure that every written request for a hearing received in the county or municipal agency is stamped with the date of receipt and forwarded to BARA within one business day of the date;

3. Reviewing incoming requests for possible corrective action prior to hearing;

4. Identifying and arranging for participation of individuals or staff who are essential to a hearing, and assembling all records relevant to a hearing and arranging for an interpreter when the client is non-English speaking, or informing the DFD that services for the visually or hearing impaired will be required at the hearing;

5. Contacting the applicant/recipient or his or her legal or authorized representative not less than two days prior to a hearing to confirm attendance and arranging for transportation by agency staff and vehicles or otherwise at agency expense, when no other reasonable means of transportation is available;

6. Submitting special reports on hearing requests prior to the hearing date, when requested by BARA;

7. Submitting reports on implementation of fair hearing decisions as soon as such action is taken; and

8. Serving as the single individual in the county or municipal agency to be contacted regarding matters relating to hearings and the monitoring system.

(b) To inform the individual who is requesting a hearing that, if the hearing decision is favorable to him or her, assistance will be reinstated retroactive to when it was suspended, reduced or terminated; or, in the case of a denial of assistance, paid retroactively to the date of application or the date on which eligibility was established, as appropriate.

10:90-9.6 Responsibilities of the Division of Family Development

(a) Each request for a fair hearing shall be registered by BARA on the date the request is received.

(b) Requests initially received in BARA will be transmitted by telephone or FAX to the appropriate county or municipal agency (in the event that a WFNJ/GA recipient requests a hearing directly from the State office) on the date received.

(c) BARA will transmit each contested case to OAL within five work business days of the receipt of the request.

10:90-9.7 Responsibilities of the Office of Administrative Law upon transmittal of a contested case from DFD

(a) The Office of Administrative Law shall schedule the hearing and shall send any necessary notices to the parties.

(b) The hearing shall be conducted by an ALJ who shall issue an initial decision.

10:90-9.8 Administrative hearings and administrative reviews

(a) Requests on matters which constitute a contested case (as defined by N.J.A.C. 1:1-1 and consistent with case law) shall be handled in accordance with the Department of Human Services (DHS) Rule on "Administrative Hearings and Administrative Reviews" at N.J.A.C. 10:6-1.1.

(b) Requests on matters which do not constitute a contested case (as defined by N.J.A.C. 1:1-1 and consistent with case law) shall be handled in accord with the DHS Rule on "Administrative Hearings and Administrative Reviews" at N.J.A.C. 10:6-1.2.

10:90-9.9 Complaints and adjustment procedures

(a) Prompt and courteous attention shall be given to all complaints, whether or not such complaints constitute requests for fair hearing and whether or not they are directed to the county or municipal agency or the DFD. All complaints received shall be acknowledged promptly and, if it is not apparent from the complaint that a fair hearing request has been made, the acknowledgment shall inform the recipient of his or her right to a fair hearing.

(b) Informal efforts to effect an adjustment may be made through field contacts, office interviews with supervisory personnel, consultation with the DFD Field Representative, and so forth. In no event, however, are such informal efforts to be considered as prerequisite to a fair hearing, and in no event do they delay, interfere with or otherwise impede the processing of a fair hearing whenever a request for such is made. Agency emphasis must be on helping the client to prepare and submit his or her request for a fair hearing.

(c) Any clear expression (oral or written) by an applicant or recipient (or person acting for him or her, such as his or her legal representative or relative) to the effect that the individual wants the opportunity to present his or her case to a higher authority constitutes a request for a fair hearing.

(d) A request for a fair hearing may be either oral or in writing and addressed to the county or municipal agency or to the DFD. Oral requests for fair hearings shall be immediately reduced to a written record by the staff person to whom the request is made. No special form of statement or manner of expression is required so long as the request identifies the nature of the complaint and the relief sought. Requests made to the county agency, or to the municipal agency for a State fair hearing, shall be immediately transmitted to the BARA, and in no event later than one business day after receipt of the request.

(e) Upon receipt of any request for a fair hearing, a determination shall be made by BARA on the appropriateness of an Administrative Hearing or Administrative Review (N.J.A.C. 10:6-1.2). If the matter is deemed contested, BARA will send an acknowledgment of the request to the recipient, along with a copy of the statement entitled "How a Fair Hearing is Conducted," together with a Notice of Status of Continuing Benefits Following Request for a Fair Hearing (Form WFNJ-850). All contested cases will be promptly forwarded to the OAL for a hearing before an ALJ.

10:90-9.10 Time limitations on entitlement to fair hearings (county and municipal)

(a) In WFNJ/TANF, an applicant or recipient has a right to request a fair hearing which relates to a county agency action or lack of action within 90 calendar days of such action or lack of action.

(b) In WFNJ/TANF, if the request for a fair hearing relates to a county agency action or lack of action that occurred more than three months (90 calendar days) prior to the date of the request, there shall be no entitlement to a hearing on such action or lack of action, unless extraordinary and extenuating circumstances exist as determined by the DFD.

(c) In WFNJ/GA, a local hearing shall be held when the request for such hearing is made within 10 calendar days of the mailing date of the notice of adverse action. Requests based on denial of the right to apply are timely if made within 10 calendar days of the contact with the municipal agency. Requests based on lack of a formal response to an application are timely if made within 10 calendar days subsequent to the end of the 30 calendar day processing period.

1. A local hearing shall be convened within 15 calendar days of the date of request. When a local hearing has not been convened within 15 days, the applicant may request and be granted a State fair hearing. In such event, the request for a local hearing is considered canceled but local efforts at reconciliation may and should continue to the maximum extent possible.

2. Any client who wishes to appeal the decision resulting from a local hearing is entitled to request a State fair hearing within 10 calendar days of the mailing date of the local hearing decision. Such request shall be written and may be made to the municipal agency or directly to the DFD. State fair hearing requests pertaining to inaction or delay by the municipal agency shall be processed as emergency fair hearings (see N.J.A.C. 10:90-9.17) as long as the request is made within 15 calendar days of the date of inaction by the municipal agency.

i. When the municipal agency receives a request for a State fair hearing from a client who is dissatisfied with the decision of a local hearing, the municipal agency shall inform the BARA by telephone or Fax on the same day the request is received.

(d) In situations involving the receipt of a notice of denial or termination of emergency assistance, the WFNJ/GA recipient has a right to request a fair hearing provided that such request is made on or before the effective date of the EA termination or within 10 calendar days of the personal delivery receipt date of a denial notice. Such appeals shall be resolved through the State level fair hearing procedure.

1. When a fair hearing is requested because of receipt of an EA termination notice and such request is made on or before the effective date of the EA termination, EA shall continue unaltered until the fair hearing is held and a final decision is rendered by the Director of DFD.

10:90-9.11 Access to case file and documents prior to hearing

Subsequent to receipt of a hearing request, the county or municipal agency shall provide the applicant/recipient and/or his or her authorized representative with an opportunity to review the entire case file and documents and records to be used by the agency at the administrative hearing. Such materials shall be made available at a reasonable time before the scheduled hearing date, as well as during the hearing. See N.J.A.C. 10:90-7.1(c) for a statement of the right to review the case file.

10:90-9.12 Representation at hearings

(a) An applicant or recipient may appear at a proceeding without legal representation, be represented by an attorney or be assisted in presentation by a relative, friend, or other spokesperson pursuant to N.J.A.C. 1:10-5.1 or 1:1-5.4. County or municipal agency staff shall help individuals make use of any legal services available in the community that can provide legal representation at the fair hearing, and shall arrange for an interpreter when an applicant/recipient is non-English speaking.

(b) The county or municipal agency representative must have knowledge of the matter at issue and must be able to present the agency case, supplying the ALJ with that information needed to substantiate the agency action. If the

agency representative feels that he or she must be an advocate of the client and is unable to represent the agency, then another agency staff person must appear at the hearing to fulfill the above identified role.

(c) In hearings involving a determination made by any component of the DFD, the matter at issue shall be presented by the appropriate staff representative(s) of the DFD.

10:90-9.13 Disposition of hearing request through withdrawal, abandonment or settlement

(a) Prior to transmittal to the OAL, if an applicant/recipient desires that a hearing request be withdrawn, that individual shall notify the county or municipal agency or the DFD of the withdrawal request. The DFD shall request, but not require, that a decision to withdraw be confirmed in writing. The DFD shall in turn acknowledge, in writing, receipt of the withdrawal request.

(b) No county or municipal agency shall deny or dismiss a request for a State fair hearing. The determination on the validity of each hearing request shall be made by the DFD, including any determination on the appropriateness of processing hearing requests pursuant to N.J.A.C. 10:6-1.2 which authorizes "Administrative Reviews and Administrative Hearings".

(c) The filing of a request for a fair hearing shall not of itself preclude continued efforts to accomplish corrective action, settlement, adjustment or any other agreement through informal procedures. Any withdrawal or abandonment or any settlement or agreement reached, subsequent to the transmittal of the case to the OAL, shall be processed according to N.J.A.C. 1:1-1 including any Rules of Special Applicability which may apply to disposition by settlement or withdrawal.

(d) If an applicant/recipient or his or her representative fails to appear for a scheduled hearing without giving proper notice, a notice of abandonment shall be sent by the county or municipal agency confirming the applicant/recipient's failure to appear on the date scheduled and inviting him or her to submit an excuse, in writing or by telephone, for nonappearance within three business days if another scheduling is desired. If no reply is received after three business days, no further hearing date shall be established.

1. Proper notice, in both WFNJ/TANF and GA, shall mean that notice is received by the county or municipal agency, the DFD, or OAL, as appropriate, not later than the scheduled date of the hearing, that the applicant/recipient will be unable to attend for unavoidable cause. If a WFNJ/GA client fails to appear for a local hearing and so advises the county or municipal agency, the hearing shall be adjourned and rescheduled.

10:90-9.14 Adjournments

Any adjournment requested by a county or municipal agency or the DFD and granted by the OAL may not operate to extend the deadlines for a final decision and agency implementation of the final decision.

10:90-9.15 Hearings involving medical issues

(a) If the hearing involves medical issues, requiring a diagnosis or a report from an examining physician, or concerning a determination by the State Disability Review Unit (within the Division of Medical Assistance and Health Services), the ALJ may issue an order requiring a medical assessment by someone other than the person who made the original medical determination.

(b) The county or municipal agency shall pay for this medical assessment which shall be obtained at reasonable expense.

10:90-9.16 Decision by Director, Division of Family Development

(a) Following issuance of an Initial Decision by the ALJ, a final administrative hearing decision will be rendered by the Director of the DFD. The applicant/recipient, his or her representative and, as appropriate, the county or municipal agency shall be notified by mail of any decision or order.

1. Unless otherwise indicated, the decision shall be effective on the date of issuance.

(b) An official and complete record of each administrative hearing will be maintained in the files of the DFD for at least one year after the date the final decision is rendered. During this one year period, the applicant/recipient or his or her legal representative may review, upon appointment, all or any part of the official and complete record of his or her administrative hearing.

(c) A decision requiring action by the county or municipal agency may apply either prospectively with regard to future action by the agency or retroactively to the date an incorrect action was taken. If the decision results from mutual agreement of the parties at the hearing and disposition by settlement and withdrawal, the terms of settlement will be binding upon the parties.

(d) Administrative hearing decisions shall be retained by the DFD for a period of three years.

(e) The DFD will take such steps as may be necessary to assure that the decision has been carried out. Corrective or remedial measures ordered by the hearing decision, unless otherwise directed in the decision, will be implemented by the county or municipal agency immediately upon receipt of the decision.

(f) Final administrative action on administrative hearing decisions, including any corrective action required by the decision, shall be implemented by the county or municipal agency within 90 calendar days of the date of the request for a fair hearing.

10:90-9.17 Emergency fair hearings

(a) An emergency fair hearing for purposes of expediting the fair hearing procedure will be scheduled when:

1. The fair hearing request results from denial by the county or municipal agency of a request for emergency assistance made in accordance with the provisions of N.J.A.C. 10:90-6.1, or replacement of a lost or stolen check has been declined by the county or municipal agency in accordance with N.J.A.C. 10:90-7.5, and the applicant/recipient contends that he or she is without funds or resources; and

2. The DFD determines that there exists a threat to the health and physical safety of the applicant/recipient sufficiently compelling and imminent to require acceleration of the fair hearing procedure.

(b) When it is determined that a request for hearing should be scheduled as an emergency fair hearing:

1. BARA shall notify the OAL by telephone of the hearing request on the same business day as the request is received. The Clerk of the OAL shall prepare the OAL transmittal form based upon the telephone call.

2. The case shall be scheduled by the OAL for a hearing within three business days after the phone call is received.

3. Notice of the time, date and place of the hearing shall be transmitted by telephone or FAX in an expedited manner after the OAL is notified of the hearing request. BARA shall notify the county or municipal agency, the petitioning applicant/recipient or representative, of the scheduled hearing by telephone or FAX.

4. The ALJ shall file an Initial Decision by the most expeditious means available with the Director of the DFD and the parties no later than the first business day following the date of the hearing.

5. Only in emergency fair hearings may the applicant/recipient, his or her representative or the county or municipal agency take exception or object to the Initial Decision by a telephone call to the DFD no later than the first business day following the issuance of the Initial Decision.

6. The director of the DFD shall issue a final decision no later than three business days following the date the Initial Decision is received, which shall accept, reject or modify the Initial Decision. On the day the final decision is issued, the DFD shall notify the county or municipal agency, and the petitioner or the petitioner's representative by telephone of the final decision, and any relief ordered shall be provided by the county or municipal agency on the day notice of the final decision is received.

SUBCHAPTER 10. REFUGEE RESETTLEMENT PROGRAM

10:90-10.1 Purpose and funding

(a) The Refugee Resettlement Program (RRP) is a Federally funded program designed to help meet the needs of refugees.

(b) Federal financial participation for refugees who are single adults or couples without dependent children under RRP is 100 percent.

10:90-10.2 Identifying refugees

An individual is considered a refugee for purposes of RRP if he or she fled from and cannot return to his or her place of national origin because of fear of persecution on account of race, religion or political opinion. Such an individual may be eligible under RRP if he or she is included in one of the statuses granted by the Immigration and Naturalization Service (INS) as delineated at N.J.A.C. 10:90-10.3.

10:90-10.3 INS statuses for RRP

(a) Applicants may be eligible for assistance under the RRP if they have been classified in one of the following INS statuses:

1. A person from any country who has been granted parole status as a refugee or asylee under Section 212(d)(5) of the Immigration and Nationality Act (INA) and so indicated by INS Form I-94. An "applicant for asylum" is not eligible for RRP.

2. A person admitted from any country as a conditional entrant under Section 203(a)(7) of the INA and so indicated on Form I-94;

3. A person from any country admitted as a refugee under Section 207 of the INA and so indicated on Form I-94;

4. A person from any country who has been granted asylum under Section 208 of the INA and so indicated on Form I-94;

5. A person from any country who previously held one of the statuses identified in (a)1 through 4 above whose status has subsequently been changed to that of permanent resident alien. In addition to the required Form I-151 or I-551 (resident alien forms) showing the status of resident alien, the individual must also provide sufficient documentation to substantiate that one of the eligible statuses indicated in (a)1 through 4 above was held prior to that of resident alien;

6. A person identified as an Amerasian from Vietnam with his or her close family members admitted in immigrant status under Section 584 of the Foreign Operations Appropriations Act, usually with an AM-1, AM-2 or AM-3 annotated on Form I-94. The Amerasians will subsequently receive an I-551. The codes used on that form will be AM-6, AM-7 or AM-8; or,

7. A Cuban or Haitian national granted parole for humanitarian reasons or in the public interest; or a Cuban or Haitian national who applies for asylum; or a Cuban or Haitian national who is subject to exclusion or deportation proceedings and a final order of deportation or exclusion has not been issued.

10:90-10.4 Resettlement

(a) Most refugees are resettled by a voluntary agency and will have a sponsor. This sponsor, which may be an individual, church or organization, shares certain responsibilities as a moral commitment with the resettling agency. Such responsibilities include: receiving the refugee, helping him or her find food, shelter, clothing, furniture, and employment; and assisting the refugee to adjust to a new environment.

(b) When a sponsor no longer provides adequate financial aid for the refugee, the refugee may turn to the county agency for assistance. As part of its regular verification process, the county agency shall contact the sponsor and inquire as to what, if any, assistance the sponsor may still be providing to the refugee; and whether the refugee has refused an offer of employment or has voluntarily quit a job without good cause. The county agency shall also request that such sponsor notify the resettlement agency of these changes in circumstances. The county agency shall also promptly notify the resettlement agency that the refugee has applied for assistance. In addition, the refugee's sponsor or resettlement agency shall be contacted to verify the possible existence of any matching grant assistance being provided to the refugee. Meanwhile, the county agency shall grant assistance to eligible refugees. Any cash assistance to the client from the sponsor or resettlement agency shall be treated as unearned income (see N.J.A.C. 10:90-3.9(e)). All contacts with the sponsor and/or resettlement agency shall be recorded in the case record (see N.J.A.C. 10:90-10.10).

10:90-10.5 Termination of RRP: continued eligibility for assistance

For refugee cases no longer eligible for RRP benefits, the suffix "R" is to be deleted from the case numbers.

10:90-10.6 Eligibility

(a) No United States citizen is eligible for RRP and a refugee may be eligible only if he or she meets the appropriate definition and INS status in N.J.A.C. 10:90-10.2 and 10.3. In addition, all refugees whose time limitations have expired will cease to be eligible for cash and medical assistance under RRP (see (b) below). Such ineligible refugees who are still in need shall, as appropriate, be assisted under WFNJ/GA, either at the county agency or referred to the municipal agency via Form PA-14, "Referral for Services," giving the reason for referral.

1. For a large extended family group, the county agency shall establish a separate assistance unit for each non-WFNJ/GA eligible individual or couple in the household.

(b) Eligibility for assistance under RRP is limited to a total of eight months for WFNJ/GA type cases. Pursuant to Sections 207 and 101(a)(42) and 1522(a)(1)(A) of the Immigration and Nationality Act (8 U.S.C.) and 45 CFR 400.42, refugee cash assistance/refugee medical assistance (RCA/RMA) are limited by the extent of available Federal appropriations in any Federal fiscal year (FFY), and on data concerning refugee arrivals, eligibility and participation in RCA/RMA. Therefore, the State RCA/RMA program period of eligibility is dependent on the fixed Federal appropriation made available to the states for any given FFY, based on the aforementioned criteria. Eligibility periods for RCA and RMA are published periodically in the Federal Register. Subsequent updates to these eligibility periods in the Federal Register will be published as a public notice by the Department of Human Services in the New Jersey Register, and this subsection revised accordingly as an administrative change.

1. Rules concerning WFNJ/GA type cases are as follows:

i. For all WFNJ/GA type applicants/recipients residing in the U.S. for eight months or less from their initial entry date or when parole status was first granted as identified on INS Form I-94, income and resources shall be treated in accordance with the standards and criteria applicable to WFNJ cases, except, that county agencies shall not apply the earned income disregard. The assistance standard for applicants/recipients shall be the appropriate amount for the eligible unit size.

ii. During the eight month period, all eligible WFNJ/GA type cases will retain Medicaid eligibility.

(c) The county agency shall consult with sponsors and/or the resettling agency about the possibility of contributions. Cash assistance to the client shall be considered as unearned income (see N.J.A.C. 10:90-10.4(b)); however, the income and resources of the sponsors themselves shall not be considered. No resources which are in fact not available to the refugee shall be considered in determining eligibility. This includes resources in the refugee's native land owned by the refugee or a responsible relative.

(d) Refugee cases that are considered WFNJ/GA type cases are subject to the work and training requirements detailed in (d) 1 through 3 below:
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1. All refugees who are not exempt from the work requirements (see (h)l below) shall be registered with an Employment Service Provider (ESP). Registration is accomplished through completion and transmittal of Form PA-54, Refugee Program Interagency Referral. The form must be sent to the DYFS Office of Refugee and Immigrant Services, PO Box 717, Trenton, NJ 08625. In some instances, however, a refugee may have been referred by a resettlement agency to an ESP which in turn referred the individual to the county agency to apply for assistance. In that instance, the ESP will complete Parts A and C of Form PA-54 and provide the individual with a copy to present to the county agency for its files. The county agency need not complete another Form PA-54 for registration purposes.

2. All employable refugees shall accept appropriate work or training opportunities. The job or training assignment shall be related to the physical and mental capability of the individual to perform the task on a regular basis. Any claim of adverse affect to physical or mental health shall be based on an adequate medical testimony from a physician or licensed or certified psychologist indicating that participation would impair the individual's physical or mental health. Cost of obtaining such medical evidence is an allowable 100 percent reimbursable cost to the county agency.

i. The total daily commuting time to and from home shall not exceed two hours. If a greater distance or time is generally accepted in the community, then the round trip commuting time shall not exceed community standards. Round trip time shall not include the time needed to transport a child to and from a child care facility.

3. In the instance of a refugee who is employed and receiving public assistance, the county agency shall require part-time training, such as English language instruction or skill training, if available, and determined appropriate, if the refugee is employed part-time (less than 100 hours per month), as a condition for continued receipt of assistance. Additionally, the county agency shall encourage, but not require, part-time English language instruction or skill training if the refugee is employed full-time (100 or more hours per month).

(e) Provisions relating to refugees attending school are as follows:

1. A full-time student age 18 shall be eligible for assistance if the student is reasonably expected to complete a program of secondary school (or the equivalent level of vocational or technical training) before attaining age 19.

2. A refugee of any age who is otherwise eligible shall not be denied cash assistance while enrolled and participating in a full-time training program which is approved by the county agency and intended to have a definite short-term (less than one year) employment objective.

(f) Provisions concerning voluntary termination of employment are as follows:

1. For a new applicant, for the 30 consecutive calendar days immediately prior to receiving aid, an employable refugee shall not have voluntarily terminated employment in order to receive assistance, nor have refused to apply for or accept an appropriate job offer.

2. Employable refugees currently receiving assistance shall not have voluntarily terminated employment in order to continue to receive assistance nor refuse to apply for or accept offers of appropriate work or training.

(g) Refusal of an employable adult recipient to accept or continue an employment or training opportunity without good cause will result in the following actions:

1. A conciliation period prior to the imposition of sanctions shall be provided for in accordance with the following time limitations:

i. The conciliation effort shall begin as soon as possible, but not later than 10 days following the date of failure or refusal to participate, and may continue for a period not to exceed 30 days.

2. If the employable refugee recipient continues to refuse an offer of employment or training, assistance shall be terminated 30 days after the date of his or her original refusal. Either the county agency or the recipient may terminate this period sooner when either believes that the dispute cannot be resolved by conciliation. The refugee shall be given at least 10 days written notice of the termination of assistance and the reason therefore. This sanction shall be applied in the following manner:

i. If the assistance unit includes other individuals, then the assistance payment shall be reduced by the per capita share of the refugee in noncompliance. If the employable refugee is a caretaker relative, assistance in the form of protective or vendor payment shall be provided to the remaining members of the assistance unit.

ii. If such individual is the only individual in the assistance unit, assistance shall be terminated.

(1) The refugee's sponsor, or the voluntary resettlement agency where there is not a sponsor, shall be notified of the action taken in (g)2i or ii above.

iii. A decision by the refugee to accept employment or training, made at any time within the 30-day period after the date of the original refusal, shall result in the continuation of assistance without interruption if the refugee continues to meet the income eligibility requirements for continued assistance.

iv. Refugees who refuse, without good cause, to accept or continue in an employment or training opportunity shall be subject to the following penalties of ineligibility:

(1) Three payment-months for the first such refusal; and

(2) Six payment-months for the second and each subsequent occurrence.

(h) The inability to communicate in English does not exempt a refugee from registration for employment services, participation in employability service programs, and acceptance of appropriate offers of employment.

1. The following refugees are exempt from the employment or training requirements given in (d) above.

i. An individual who is between age 16 and 18, enrolled or accepted for enrollment as a full-time student for the next school term in a secondary, or vocational or technical school; or under age 19 and attending full-time, a secondary school or the equivalent level of a vocational or technical school, and expected to complete the program of the school before reaching age 19;

ii. A person who is ill, incapacitated or age 65 or over;

iii. A person whose presence in the home is required because of illness or incapacity of another member of the household;

iv. An individual working at least 30 hours a week in unsubsidized employment expected to last a minimum of 30 days. This exemption continues to apply if there is a temporary break in full-time employment expected to last no longer than 10 days;

v. An individual who is pregnant if it has been medically verified that the child is expected to be born in the month in which such registration would otherwise be required or within the next six months;

vi. The person is enrolled full-time in training approved by the county agency as part of an approved employability plan.

(i) When there is an urgent need for assistance, the initial assistance payment shall be based on immediate need.

10:90-10.7 Medical assistance and medical expense spend-down

(a) Medical assistance: State eligibility standards for Title XIX shall apply to a refugee's eligibility for medical assistance except:

1. Requirements for categorical relatedness for medical assistance shall not be imposed. Actual receipt of financial assistance for living expenses shall not be required as a condition of eligibility for medical assistance;

2. The WFNJ allowance standard for the appropriate unit size shall constitute the medical assistance financial standard. However, the Medicaid "Cap" shall apply to eligible refugees in Title XIX-approved facilities;

3. No financial resources which are in fact not available to the refugee, including resources remaining in the place of national origin owned by a refugee or a responsible relative, shall be considered in determining eligibility for medical assistance;

4. The income and resources of sponsors, and in-kind services and shelter provided to refugees by their sponsors, shall not be considered in determining eligibility for medical assistance;

5. All refugees who have been in the U.S. for eight months will no longer be eligible for medical or cash assistance under RRP. Any subsequent update to this eligibility period for medical or cash assistance under RRP will be published as public notice by the Department of Human Services in the New Jersey Register (see N.J.A.C. 10:90-10.6(b));

6. WFNJ/GA type refugees who lose eligibility for financial assistance due to increased earnings are eligible for Medicaid extension for up to eight months. This eight month extension is only allowable during the refugee's first eight months in the country. In cases where a refugee obtains private medical coverage, any payment of refugee medical assistance for that individual must be reduced by the amount of the third party payment; and

7. A refugee is not required to actually receive or apply for refugee cash assistance as a condition of eligibility for refugee medical assistance.

(b) Those refugees who may be eligible for New Jersey's Medically Needy Program shall be referred to that Program.

10:90-10.8 Social services

Referral and information about other services available in the community should be offered to refugees regardless of their eligibility for financial assistance.

10:90-10.9 Fair hearings

The procedures and provisions for fair hearings in N.J.A.C. 10:90-9 shall apply in RRP.

10:90-10.10 Case records

(a) A separate record shall be established for each individual or family receiving assistance. For continuing cases, all changes in the status of each case and the dates on which changes occurred shall be recorded. For inactive cases, since RRP is Federally financed, the case records are considered Federal records. Therefore, they cannot be disposed of in the same manner that the county agency disposes of case records for other inactive public assistance cases. Accordingly, the records for closed refugee cases shall be retained until a Federal audit is completed.

(b) Each case record shall contain:

1. The alien registration number as it appears on Form I-94 issued by INS;

2. The name and address of the refugee's sponsor (if known);

3. Documentation of contacts with the sponsor and/or resettlement agency; and

4. Date of entry into the U.S.

SUBCHAPTER 11. INTENTIONAL PROGRAM VIOLATION

10:90-11.1 Definition of intentional program violation (IPV)

(a) Intentional program violation (IPV) is any statement or act by an individual for the purpose of establishing or maintaining the assistance unit's eligibility for WFNJ assistance, for increasing or preventing a reduction in the WFNJ assistance, or to prevent denial or termination of WFNJ assistance, which is intentionally:

1. A false or misleading statement or misrepresentation, concealment, or withholding of facts; or

2. An act intended to mislead, misrepresent, conceal, withhold facts, or to propound a falsity.

3. "WFNJ assistance" is defined, for this purpose, as WFNJ/TANF or WFNJ/GA cash assistance, WFNJ emergency assistance, WFNJ child care benefits, WFNJ special payments, WFNJ temporary rental assistance, or WFNJ transportation or work-related allowances or reimbursements.

(b) When evaluating alleged IPV by an individual, there are three basic elements which must be established through investigation:

1. The misrepresentation or concealment must have been deliberate and done knowingly. IPV does not exist if the misrepresentation or concealment is the result of an unintentional act, a misunderstanding or mental incompetence. Distinction must also be made between an intent to defraud on the part of an individual, and omission, neglect or error by the county or municipal agency's representatives in securing and recording information;

2. The misrepresentation or concealment must have been undertaken for the express purpose of receiving or obtaining benefit from, or attempting to receive or obtain benefit from, a payment of assistance to which the individual was not entitled; and

3. If the misrepresentation or concealment, or the attempt to misrepresent or conceal a relevant fact, had been known to the county or municipal agency, assistance would not have been granted or would have been granted in a lesser amount.

(c) The evidence to establish the three points delineated in (b) above must be factual and capable of being demonstrated in an administrative disqualification hearing or in a court of law through the testimony of witnesses, or by documentary evidence.

(d) At the time of application for WFNJ, individuals shall be provided with written notice informing them of the WFNJ disqualification penalties that will be imposed for committing IPV. Current WFNJ recipients shall also be provided with the written notice at the time of case redetermination.

(e) A person is presumed innocent until proven guilty. Except as provided in N.J.A.C. 10:90-11.6(b), assistance shall be continued to an eligible person, even though there is reason to suspect that IPV has been committed, while the facts are under review by the county or municipal agency, or the law enforcement authority.

(f) The county or municipal agency shall ensure that an individual under investigation shall have the following rights:

1. The county or municipal agency shall ensure that information obtained from or concerning a person under investigation shall be restricted in accordance with N.J.A.C. 10:90-7.7. The county or municipal agency shall take special precautions in obtaining information from a third party so that no accusations relevant to the alleged IPV are disclosed, including the reason for the investigation or the nature of the allegation, without the written consent of the individual under investigation.

2. The county or municipal agency shall ensure that investigative methods do not infringe on the civil liberties of the individual or interfere with due process of law. The county or municipal agency shall be prohibited from obtaining forced entry, conducting residence searches without consent of the client, making home visits during normal sleeping hours (generally 10:00 P.M. to 7:00 A.M.), or requiring that an individual be subjected to a lie detector test.

3. Rules on warning and waiver of rights are as follows:

- i. When the questioning of an individual regarding a possible charge of IPV becomes accusatory in nature, no individual may be asked or permitted to sign any waiver of rights before he or she has had an opportunity to read, or if necessary have read to him or her, the individual's right to refrain from answering any questions and to terminate the interview at will at any time. The individual shall also be given a copy of the statement explaining the individual's rights. The individual shall also be advised at that time of the opportunity, where available, to obtain legal counsel through Legal Services, the Legal Aid Society, or the lawyer referral service of the Office of the Public Defender.

- ii. The county or municipal agency representative shall ask if the individual wishes to sign the waiver of

rights statement, indicating that he or she acknowledges his or her rights and agrees to discuss the matter without the presence of an attorney. The county or municipal agency representative shall witness the waiver by signing and dating the document. A copy of the signed document shall be given to the individual.

- iii. If the individual refuses to sign the waiver, no further questioning shall occur at this time. If the individual requests the presence of an attorney, the county or municipal agency shall postpone the interview for a reasonable period of time so that the accused individual may arrange for legal representation. However, the investigation shall not be delayed pending the interview.

10:90-11.2 Methods of determining IPV

(a) The county or municipal agency shall proceed against any individual member of an WFNJ assistance unit, regardless of WFNJ payment status, who it believes has committed IPV. The county or municipal agency may secure a finding of IPV either through an administrative disqualification hearing conducted by the Office of Administrative Law (OAL), or a court of appropriate jurisdiction. In proceeding against any such individual, the county or municipal agency shall coordinate the IPV investigation and any resultant hearing with any action being taken under the Food Stamp Program, when the factual issue(s) arises from the same or related circumstances. A finding of IPV may also be made if the accused signs either the waiver of right to an administrative disqualification hearing (N.J.A.C. 10:90-11.4), or a disqualification consent agreement (N.J.A.C. 10:90-11.9).

(b) A referral for an administrative disqualification hearing or referral to a court of appropriate jurisdiction shall be initiated by the county or municipal agency whenever the county or municipal agency has sufficient documentary evidence to substantiate that an individual has intentionally committed one or more acts of IPV, as defined at N.J.A.C. 10:90-11.1, regardless of the current eligibility of the individual.

10:90-11.3 Referral for administrative disqualification hearing

(a) Referral for an administrative disqualification hearing shall be made:

1. When the facts of the case do not warrant prosecution through the court system;
2. When a case previously referred for prosecution is declined by the appropriate legal authority; or
3. When no action has been taken on a case which has been referred for prosecution and the county or municipal agency has decided to formally withdraw the referral.

(b) A referral for an administrative disqualification hearing shall not be made against an individual whose case is

currently being referred for prosecution, or subsequent to any action taken against the accused individual by a court of appropriate jurisdiction.

(c) IPV cases which are referred to the prosecutor and/or a court of appropriate jurisdiction and are handled through prosecution, pre-trial intervention, or are plea-bargained shall not be subsequently referred for an administrative disqualification hearing.

(d) The county or municipal agency shall consolidate an individual's fair hearing with an administrative disqualification hearing based on the same or related circumstances, provided that the individual receives prior notice of the consolidation.

10:90-11.4 Waiver of right to administrative disqualification hearing

(a) The accused individual shall have the option of waiving his or her right to an administrative disqualification hearing. The county or municipal agency shall provide written notification of this option to the client only after ensuring that the evidence against the client has been reviewed by someone other than the eligibility worker assigned to that case and that such evidence warrants the scheduling of a disqualification hearing. A mandatory written notification, which informs the individual of the option of waiving his or her right to a disqualification hearing, shall include:

1. The date that the signed waiver must be received by the county or municipal agency to avoid the holding of a hearing and a signature block for the accused individual;

2. A statement explaining that the caretaker relative must likewise sign the waiver if the accused individual is not the caretaker relative;

3. An appropriately designated signature block for the caretaker relative;

4. A statement explaining the accused individual's right to remain silent concerning the charge(s), and that anything said or signed by the individual concerning the charge(s) can be used against him or her in a court of law;

5. A statement explaining that waiver of the individual's right to appear at a disqualification hearing may result in a disqualification penalty and a reduction in the assistance payment for the appropriate period, even if the accused individual does not admit to the facts as presented by the county or municipal agency;

6. A statement indicating that the accused individual shall be provided the opportunity to specify whether or not he or she admits to the facts as presented by the county or municipal agency; and

7. The telephone number and, if possible, the name of the person at the county or municipal agency to contact for additional information.

10:90-11.5 Administrative disqualification hearing procedures

(a) Administrative disqualification hearings will be conducted in accordance with the requirements of this section, and with those stipulated under N.J.A.C. 1:1 and 1:10. OAL will assign an administrative law judge (ALJ) to preside over the hearing.

(b) Administrative disqualification matters shall be transmitted by DFD to the OAL for the purpose of conducting a hearing pursuant to N.J.A.C. 1:1 and 1:10.

(c) The final decision shall be made by the Director of DFD based on the hearing record, and shall comply with Federal and State law and regulations.

(d) The hearing record shall be retained for a period of three years. This record shall be available to the WFNJ assistance unit, or its representative, at any reasonable time for copying and/or inspection.

(e) Within 90 calendar days of the date the individual is notified in writing that an administrative disqualification hearing has been scheduled, the hearing shall be conducted and a decision shall be rendered.

(f) The county or municipal agency shall provide advance written notice of the hearing to the individual suspected of IPV at least 30 calendar days in advance of the date an administrative disqualification hearing has been scheduled. The notice shall be mailed by certified mail-return receipt requested. In the event that the individual refuses to accept delivery of the advance notice and the mail receipt notes that fact, the receipt will be accepted as proof of notice served. The certified letter shall be clearly marked "deliver to addressee only" in order to ensure that notice is served to the correct individual. A return receipt for certified mail which contains the signature of an individual other than the person addressed is insufficient evidence that proper advance notice was given. Letters sent by certified mail which are returned to the county or municipal agency with notations such as "unclaimed" or "undeliverable" offer no proof that advance requirements have been met. The advance notice shall contain at a minimum:

1. The date, time, and location of the hearing;

2. The charge(s) against the individual;

3. A summary of the evidence, and how and where the evidence can be examined;

4. A warning that the decision will be based solely on information provided by the county or municipal agency if the individual fails to appear at the hearing without good cause;

5. A statement that the individual, or his or her representative, will have 10 calendar days from the date of the scheduled hearing to present good cause to DFD or the county or municipal agency for failure to appear, in order to receive a new hearing;

6. A warning that a determination of IPV will result in a six-month disqualification for the first violation, 12-month disqualification for the second violation, and permanent disqualification for the third violation, and a statement of which penalty the county or municipal agency believes is applicable to the case at the time of scheduling of the hearing;

7. A listing of the individual's rights as provided under N.J.A.C. 1:10;

8. If there is an individual or organization available that provides free legal representation, the notice shall advise the assistance unit member of the availability of that service;

9. A statement that the individual may request a postponement of the hearing provided that such request is made to the OAL at least 10 calendar days in advance of the scheduled hearing;

10. An explanation that the individual may waive his or her right to appear at the administrative disqualification hearing as provided in N.J.A.C. 10:90-11.4;

11. A statement of the accused individual's right to remain silent concerning the charge(s) and that anything said or signed by the individual concerning the charge(s) may be used against him or her in a court of law; and

12. A statement which informs the assistance unit of its right to obtain, upon request, a copy of the State agency's published hearing procedures.

(g) The time and place of the hearing shall be arranged so that the hearing is accessible to the individual suspected of IPV.

(h) If the individual is found to have committed IPV but a determination is subsequently made that the individual or his or her representative had good cause for not appearing, the previous decision shall no longer remain valid. The individual has 10 calendar days from the date of the scheduled hearing to present reasons indicating a good cause for failure to appear. A new hearing shall be conducted. The ALJ who originally ruled on the case may conduct a new hearing. The ALJ shall enter the good cause decision into the hearing record.

(i) Medical assessments, which may either corroborate or disprove an accused individual's statements, shall be obtained at county or municipal agency expense and made part of the record if the ALJ considers it necessary.

10:90-11.6 Participation while awaiting a hearing

(a) A pending administrative disqualification or court hearing shall not affect the individual's right to participate in the program. Since the county or municipal agency cannot disqualify an individual for IPV until the hearing or court decision establishes that the individual has committed IPV, the county or municipal agency shall determine the eligibility of the individual based on the individual's current circumstances.

(b) The county or municipal agency shall reduce or terminate the individual's assistance if the county or municipal agency has documentation which substantiates that the individual is either ineligible or eligible for a lesser amount of assistance benefits. This provision applies even if the same evidence leads to the suspicion of IPV and the scheduling of a disqualification hearing. For example, the county or municipal agency may have facts which substantiate that the individual failed to report a change in his or her circumstances even though the county or municipal agency has not yet demonstrated that the failure to report involved an act of IPV. If the county or municipal agency reduces or terminates the individual's assistance before or after the scheduling of an IPV hearing, the individual has the right to request a fair hearing and to continue participation in the program pending the outcome of that fair hearing, in accordance with N.J.A.C. 10:90-9.3(e), notwithstanding a pending hearing to determine whether the individual committed IPV.

10:90-11.7 No further administrative appeal

No further administrative appeal procedure exists beyond the signing of a waiver of the right to a disqualification hearing by the accused individual, or an adverse decision following a disqualification hearing. The disqualification penalty cannot be reversed by a subsequent fair hearing decision. The individual, however, is entitled to seek relief in a court having appropriate jurisdiction. The period of disqualification may be subject to a stay by a court of appropriate jurisdiction or other injunctive remedy.

10:90-11.8 Referral of IPV cases for prosecution

(a) County or municipal agencies are encouraged to refer for prosecution those individuals suspected of intentionally making false or misleading statements or concealing or withholding facts for the purpose of receiving WFNJ assistance.

(b) The county or municipal agency shall confer with its legal representative to determine the types of cases which will be accepted for possible prosecution.

(c) The county or municipal agency shall also encourage prosecutors to recommend to the courts that a disqualification penalty be imposed in addition to any other civil or criminal penalties for such violations.

10:90-11.9 Disqualification consent agreement

(a) An individual accused of IPV who is referred to a court of appropriate jurisdiction but for whom no determination of guilt is obtained due to the accused individual having met the terms of a court order, or who is not prosecuted due to the fact that the accused individual has met the terms of an agreement with the prosecutor, shall be allowed to sign a disqualification consent agreement. The county or municipal agency shall make arrangements with the county prosecutor to provide advance written notification to the individual of the consequences of consenting to disqualification as a result of deferred adjudication and to include the disqualification consent agreement in agreements between the prosecutor and the accused individual or in the court order.

(b) The advance notice and agreement shall include, at a minimum:

1. A statement of understanding for the accused to sign which states that the accused understands the consequences of consenting to IPV, along with a statement explaining that the caretaker relative must likewise sign the consent agreement if the accused individual is not the caretaker relative, with an appropriately designated signature block for that relative and/or the accused individual;

2. A statement indicating that signing the agreement will result in disqualification and a reduction in payment to the assistance unit during the period of disqualification, even though the accused individual was not found guilty of civil or criminal misrepresentation or fraud;

3. A warning statement indicating the disqualification penalties imposed for IPV under the WFNJ Program. Those penalties include a six-month disqualification for the first violation, a 12-month disqualification for the second violation and permanent disqualification for the third violation. An additional statement must further explain the specific penalty imposed as a result of the accused individual having consented to disqualification; and

(c) If the individual signs the disqualification consent agreement, he or she shall be disqualified in accordance with N.J.A.C. 10:90-11.11. If the court specifies a disqualification period or specifies a date for initiating disqualification, the county or municipal agency shall adhere to the court order. If an individual whose case has been terminated signs a consent agreement, the disqualification period shall be postponed until after a reapplication for WFNJ assistance is approved.

10:90-11.10 Reversed IPV disqualifications

(a) In cases where the determination of guilty of IPV is reversed by a court of appropriate jurisdiction, the county or municipal agency shall reinstate the individual in the program if the assistance unit is otherwise eligible for WFNJ benefits.

(b) The county or municipal agency shall restore any benefits to the eligible WFNJ assistance unit that were lost as a result of the disqualification of the individual, in accordance with the procedures specified in N.J.A.C. 10:90-2.

10:90-11.11 IPV disqualification penalties

(a) IPV disqualification penalties affect only the individual found to have committed IPV; those penalties are not applied against the entire assistance unit. Individuals found to have committed IPV either through an administrative disqualification hearing or by a court of appropriate jurisdiction (not including pre-trial intervention), or who have signed either a waiver of right to an administrative disqualification hearing or a disqualification consent agreement in cases referred for prosecution, shall be ineligible to participate in the program as follows:

1. For a period of six months for the first violation;
2. For a period of 12 months for the second violation; and
3. Permanent disqualification for the third violation.

(b) During the disqualification period, the county or municipal agency shall not take the individual's needs into account when determining the WFNJ assistance unit's need and amount of assistance. Any resources and income of the disqualified individual will be considered in its entirety, available to the assistance unit.

(c) If an individual had previously been found guilty of committing welfare fraud before the implementation of the WFNJ IPV disqualification penalties, that finding shall not be considered as a previous IPV in determining the appropriate disqualification period to be applied in accordance with (a) above. The WFNJ IPV disqualification penalties shall be applicable to any act of IPV based upon information which was provided by the assistance unit in an WFNJ application for assistance, and that application informed the assistance unit of the WFNJ IPV disqualification penalties.

(d) If the court does not specify a disqualification period for a finding of IPV, the county or municipal agency shall impose the appropriate disqualification period unless contrary to the court order.

(e) If the court directs the county or municipal agency to either impose a specific disqualification period, or not to impose a disqualification period, the county or municipal agency shall comply with the directive of the court.

(f) Any period for which a disqualification penalty is imposed shall remain in effect, without the possibility of an administrative stay, unless and until the finding upon which the penalty was based is subsequently reversed by a court of appropriate jurisdiction.

(g) In cases where a disqualification penalty and other sanctions or penalties imposed by the court apply, the IPV disqualification penalties shall be in addition to, and cannot be substituted for, any other sanctions or penalties which may be imposed by law for the same offenses.

10:90-11.12 Imposing disqualification periods

(a) If the individual is not eligible at the time the disqualification period is to begin, the period shall be postponed and becomes applicable upon reapplication by the individual for WFNJ benefits if the individual is determined eligible for such benefits, or becomes applicable upon the expiration of a previously imposed program sanction at such time that the individual would normally resume receipt of benefits. However, once a disqualification period is imposed, the period of disqualification shall continue uninterrupted regardless of the eligibility of the individual.

(b) For an individual who signs a waiver of the right to an administrative disqualification hearing, the disqualification period shall begin no later than the first day of the second month which follows the date the individual received written notification of the disqualification.

(c) For an individual who signs a disqualification consent agreement, the disqualification period shall begin no later than the first day of the second month which follows the date of the notice, unless otherwise directed by the court.

(d) For an individual found guilty of IPV by an administrative disqualification hearing, the disqualification period shall begin with the first day of the second month which follows the date the individual received written notification of the hearing decision.

(e) For an individual found guilty of IPV by a court of appropriate jurisdiction, the disqualification period shall begin within 45 calendar days of the date the disqualification was ordered or, if no disqualification period is specified by the court, within 45 calendar days of the date the court found the individual guilty of civil or criminal misrepresentation or fraud.

(f) Whenever an individual is disqualified for IPV, the county or municipal agency shall provide written notice to the individual prior to the disqualification. The notice shall inform the individual of the decision and the reason for the decision. In addition, the notice shall inform the individual of the period of disqualification and of the amount of assistance the remaining eligible assistance unit members will receive during the period of disqualification. In the event that the individual's disqualification resulted from a prior receipt of assistance, the notice shall advise that the disqualification will be postponed until after a reapplication for WFNJ assistance is approved.

(g) When an individual with a previous IPV disqualification moves from one county, municipality or state to another, the receiving county or municipal agency shall take the

previous disqualification into consideration when determining the appropriate penalty to be applied against that individual, if such action is required.

(h) When an individual currently serving an IPV disqualification moves from one county, municipality or state to another, the disqualification shall continue regardless of the individual's WFNJ eligibility status in the receiving county or state.

10:90-11.13 County or municipal agency IPV administrative procedures

(a) The county or municipal agency must conduct an investigation of an allegation that an individual has committed IPV. The county or municipal agency is responsible for determining whether there is a basis in fact for believing that IPV may have been committed so that referral to the county prosecutor or other proper law enforcement official for legal action is justified. The action taken by the law enforcement official following referral determines what further legal action shall be pursued. Whether IPV has actually occurred is a question for the court. The county or municipal agency director may utilize the power of subpoena given him or her by N.J.S.A. 44:7-20 to secure testimony and records pertinent to the investigation and needed to determine true facts.

(b) Each county or municipal agency shall develop an operational method to carry out its responsibility which is best suited to its administrative structure and to local conditions and resources. There must be a clear allocation of duties and functions in the total process of investigation, reporting, evaluation, in making the decision to refer, and so forth. With respect to the function of investigation, the county or municipal agency may select one or a combination of the following plans:

1. The county or municipal agency may arrange for special investigation of cases of suspected fraud by another appropriate agency or official such as office of the county adjutor, the probation department, or the office of the county prosecutor, without cost to the county or municipal agency.

2. The county or municipal agency may elect to have staff carry the responsibility for the necessary special investigation in instances of suspected IPV, relying upon consultation with county or municipal agency counsel for the technical aspects of establishing adequate evidence on which to base a decision.

3. Whatever administrative plan is adopted, there will be instances where discussion should be arranged with county or municipal agency counsel and/or the county or municipal prosecutor's office as to the nature and conduct of the investigation.

4. Each county or municipal agency shall file a detailed description of the administrative plan with DFD and shall

advise DFD of any subsequent proposed change in the plan before it becomes effective.

(c) When the investigation of any case of suspected IPV is completed, the county or municipal agency director, in consultation with counsel, shall be responsible for determining whether the matter should be referred to the county prosecutor or other proper law enforcement official.

(d) In cases where the county or municipal agency has completed an investigation based upon a belief that IPV has been committed, an Investigation Initiation Sheet shall be routed through the county or municipal agency director to DFD. The form shall be completed when the county or municipal agency determines that no fraud exists, when the case is disposed of through administrative action, or when the case is forwarded to the county prosecutor.

(e) Upon disposition of the case by law enforcement officials (county prosecutor or municipal court), an Investigation Disposition Sheet shall be completed and routed through the county or municipal agency director to DFD.

SUBCHAPTER 12. PROGRAM ADMINISTRATION, CONSOLIDATION AND PERFORMANCE STANDARDS

10:90-12.1 Statutory authority

Regulations set forth in this subchapter are promulgated under P.L. 1990 c. 66 and P.L. 1997 c.37.

10:90-12.2 Authority of the commissioner

(a) The Commissioner of the Department of Human Services is obligated to ensure that the benefits provided under the WFNJ program, administered by county or municipal agencies throughout the State, are issued to eligible persons in an accessible, efficient and equitable manner.

(b) The Commissioner has the authority to establish and enforce rules, regulations, and directives, including incentives and sanctions, to ensure that public assistance agencies provide WFNJ/GA benefits to eligible recipients in a manner consistent with State law.

(c) The Commissioner has the authority to require the municipality to transfer its administration of WFNJ/GA to the county. (See N.J.A.C. 10:90-12.5(c).)

(d) The Commissioner has the authority to assume direct administration of and operation of any county (see N.J.A.C. 10:84-1.1) or municipal agency operation when it is determined that the county or municipality substantially failed to administer the WFNJ program in accordance with State law.

(e) The Commissioner has the authority to review and approve county and municipal agency budgets.

(f) The Commissioner has the authority to recoup any overpayments or payments issued to ineligible individuals identified through an audit or during a routine or special performance evaluation.

10:90-12.3 Transfer of administration of the WFNJ/GA Program

(a) The administration of WFNJ/GA program shall be transferred from each municipality in a county to the county for administration on or after January 1, 1998 unless the governing body of a municipality declines the transfer via passage of a Resolution. Passage of the Resolution must occur no later than six months after the adoption of these regulations.

1. The Resolution shall include a full and thorough explanation of the reasons why the governing body elects to retain the program.

2. A copy of the Resolution adopted by the local municipal governing body shall be filed with the Division of Local Government Services (DLGS) in the Department of Community Affairs (DCA) within three days after its passage and a copy shall be concurrently sent to Division of Family Development (DFD).

3. An implementation plan shall be submitted to DFD regarding the operation of the WFNJ/GA program and the plan shall include the following details:

i. A detailed explanation fully elaborating upon exactly how the municipality shall comply, within the timeframes specified by the Commissioner, with all the automated systems' requirements as defined by the DFD, including but not limited to Electronic Benefit Transfer (EBT), fingerimaging and an automated client data base;

ii. An assurance that the WFNJ/GA municipal program shall operate and that staff coverage shall be provided at all times as specified at 10:90-12.4(a)1; and,

iii. A binding acknowledgment that arrangements to handle after-hours emergencies shall be in place as specified by the Commissioner.

4. Once the administration of WFNJ/GA program is transferred from a municipality to the county, the county shall have complete and exclusive control over the operation of the program subject to the rules established by and the oversight of DFD.

(b) A municipality may choose to transfer administration of its WFNJ/GA program to the county at any time subsequent to the passage of its Resolution. In such instances, the municipality and county shall develop a mutual agreement governing transfer of the program, subject to the approval of the Commissioner, which shall include but not be limited to the following:

1. The effective date by which the county agrees to assume full operation of the WFNJ/GA program with no loss of service to clients.

2. The plan for the transfer of case data, including when it will be transferred and the method of transferal to ensure the full integrity of the transferred data.

(c) Effective January 1, 1998, each county or municipality shall provide to the State information deemed necessary for the proper administration of the WFNJ/GA program through electronic means.

1. To submit information to DFD through electronic means, each county or municipality, as appropriate, shall have the systems capability to comply with the WFNJ technological requirements as defined by DFD.

2. The municipal agency shall utilize DFD's Universal Application Process software, supplied by the DFD.

3. The municipal agency shall update and or enhance equipment needs, as appropriate and determined by the DFD.

(d) In the transition of the administration of WFNJ/GA, the municipality shall assure that the county is provided with all information and materials, formerly in the possession of the municipality, necessary to administer the WFNJ/GA program, including transfer of records, and information regarding existing worksites for clients to engage in work activities. The materials and information shall be transferred timely and orderly within a timeframe specified by the Commissioner.

10:90-12.4 Municipalities that continue to administer WFNJ/GA

(a) Municipalities that continue to administer the WFNJ/GA program shall:

1. Provide for the municipal office administering the WFNJ/GA program to be open a minimum of three hours a day, Monday through Friday, and to be accessible to the public seven hours a day, Monday through Friday, to take applications for assistance and to provide emergency assistance, and maintain a system approved by DFD to cover emergencies 24 hours a day.

2. Provide for the issuance of cash assistance benefits, in accordance with these regulations, by paper check, electronic benefit distribution, or other appropriate means approved by the Commissioner.

3. Report all required case data and financial information regarding the WFNJ/GA program to the Commissioner through the electronic means specified by the Commissioner and in accordance with the timeframes/timelines established by the Commissioner.

4. Issue photo identification cards for each client as specified by the Commissioner.

5. Provide for fingerprinting of all recipients of WFNJ/GA as prescribed by the Commissioner.

6. Establish and maintain a sufficient number of affiliation agreements with local human services agencies for shelter and other services to timely meet clients' needs.

10:90-12.5 Evaluating county/municipal agency performance

(a) To ensure that WFNJ/GA program benefits are being provided to eligible individuals in an accessible and efficient manner, the performance of the county and municipal agency shall be assessed by the DFD through prescribed routine performance evaluation activities or, as warranted, through special performance evaluation activities. Assessable areas to be used by DFD for routine performance evaluation purposes shall correspond but not be limited to the requirements set forth throughout N.J.A.C. 10:90 in the following areas:

1. Procedures on the administration of the WFNJ/GA program are as follow:

i. Evaluation as to whether WFNJ/GA applications and interviews have been completed;

ii. Evaluation as to whether all necessary case file data has been maintained;

iii. Evaluation as to whether required verifications of eligibility factors have been completed as prescribed;

iv. Evaluation as to whether the case processing and redeterminations of eligibility and ongoing verifications have been completed as prescribed, including but not limited to:

(1) Monthly reviews, where applicable; and

(2) Redeterminations of eligibility;

v. Evaluation as to whether individual responsibility plans are completed;

vi. Evaluation of the timeliness and adequacy of adverse action notifications;

vii. Evaluation of the timeliness and accuracy of the submittal of county or municipal budget for approval;

viii. Evaluation of the adequacy and correctness of the tracking mechanisms utilized to monitor compliance with the 60 month cumulative lifetime limit of receipt of cash assistance;

ix. Evaluation of the adequacy and correctness of the tracking systems in place to monitor and record required work activity and work requirements history and information;

x. Evaluation of the adequacy of the automated system;

xi. Evaluation of the accuracy and timeliness of the transmittal of information to the automated client data base.

2. Rules on the administration of the Emergency Assistance component of the WFNJ/GA Program are as follows:

i. Accuracy and detail of documentation of the client's emergency;

ii. Establishment and compliance with mutually developed Service Plans which includes:

(1) Provision of transportation;

(2) Assistance with recipient's search for permanent or alternative shelter; and,

(3) Referrals to other appropriate services.

iii. Securing authorization for granting of temporary rental assistance (TRA).

3. Fiscal procedures are as follows:

i. Timely and accurate transmittal of the following WFNJ/GA program documents:

(1) Report of Assistance Expenditures and Case Activity (WFNJ/GA-6), and Statistical Summary (WFNJ/GA-6A), shall be transmitted to DFD;

(2) Quarterly Financial Report (WFNJ/GA-535-Q) and the Annual Financial Report (WFNJ/GA-535-A); and,

(3) Repayment of Interim Assistance Authorization Payment Verification (WFNJ/GA-31), shall be transmitted to DFD.

ii. Submittal of Social Security Administration Supplemental Social Security Income Notice of Interim Assistance Reimbursement (SSA-(L)8125) to the New York Social Security Administration office.

iii. Reimbursement of assistance as follows:

(1) Reimbursement of pharmaceutical/medical administrative costs;

(2) Completion and submittal of Authorization for Reimbursement of Initial Supplemental Security Income (SSI) Payment or Initial SSI Posteligibility Payment (WFNJ/GA-30); and, completion of Agreement to Repay Assistance from Initial SSI Payment (WFNJ/GA-30A).

iv. Accuracy of benefit payments verified through audits and Quality Assurance Reviews.

4. Fraud procedures are as follow:

i. Fingerprinting shall be completed and transmitted to DFD, as required.

ii. Matched reports shall be completed and transmitted to DFD. (See N.J.A.C. 10:90-14.9.)

iii. WFNJ/GA cases identified as having sufficient evidence to support fraudulent activity shall be investigated for fraud, including referral for findings of intentional program violations. (See N.J.A.C. 10:90-11.)

iv. Appropriate activity shall be initiated, as a result of local fraud investigative findings.

5. Other evaluations, such as:

i. Status of county or municipal agency performance as determined by DFD from results of other evaluation findings.

ii. A special performance evaluation shall constitute the undertaking of a statistically valid eligibility review in a specific county or municipal agency, when the DFD determines that a county or municipality cannot reasonably provide a legitimate reason for the following occurrences:

(1) At the end of each calendar quarter (March 31, June 30, September 30 and December 31) a county's or municipality's expenditures exceed its estimate to an extent proportionally in excess of other counties or municipalities of equal size; or,

(2) A pattern of non-payment of WFNJ/GA exists in a specific county or municipality.

(b) County or municipal agency performance, as appropriate, shall be evaluated as follows:

1. When a routine performance evaluation is conducted, overall county or municipal performance shall be measured using no less than an 85 percent tolerance level for each of the evaluation categories identified at (a)1 through 5 above (that is, administration of WFNJ/GA program, emergency assistance, fiscal, fraud, and other evaluations).

i. Satisfactory performance shall mean that a county or municipality has achieved a rating of at least 85 percent in all of the evaluation categories.

(1) A satisfactory performance rating shall not be subject to county or municipal appeal.

ii. Below satisfactory performance shall mean a rating of below 85 percent in one or more of the evaluation categories.

2. When a special performance evaluation is conducted, county or municipal performance shall be measured in accordance with the DFD's established Quality Assurance review procedures. Review results indicating agency error shall be handled as follows:

i. If excessive county or municipal expenditures are identified and the review results in a finding of overpayments or payments made to ineligible individuals, audit exception shall be initiated against the agency based on individual cases found incorrect due to agency error.

ii. If a pattern of non-payment exists and the review results in a finding that a county or municipal agency is not providing eligible clients WFNJ/GA benefits, that county or municipality shall be advised that immediate corrective action measures shall be undertaken as described in (c) below.

(c) Rules governing a below satisfactory performance rating are as follows:

1. When a county/municipality's performance rating is below satisfactory, the Commissioner shall at any time, based on his discretion regarding the severity of the below satisfactory rating, exercise the right to: assume direct administration of the county administered-WFNJ/GA program or transfer the administration of the WFNJ/GA program from the municipality to the county.

i. Since WFNJ/GA shall be administered either by the county or municipal agency, the following rules in (c)2 govern "below satisfactory performance" for both county and municipal agencies.

2. Counties or municipalities whose overall performance rating results in a below satisfactory level shall be subject to the following corrective action measures:

i. State and county or municipal staff shall meet to identify possible causes of the deficiencies in operations.

ii. A corrective action plan to improve county or municipal WFNJ/GA operations shall be mutually developed and implemented within a reasonable period of time agreeable to both the DFD and the county or municipality.

iii. Upon implementation of the corrective action plan, county or municipal agency operations shall be monitored by DFD staff to ensure that planned corrective actions are taking place as stipulated in the mutually agreed upon manner.

iv. State staff shall reassess the county or municipality's WFNJ/GA operations at the end of the mutually designated period.

(1) Counties or municipalities whose WFNJ/GA operations have improved to at least a satisfactory level shall be deemed to have satisfied the terms of their corrective action plans.

(2) Counties or municipalities whose WFNJ/GA operations do not improve or which fail to show a good faith effort toward improvement shall be subject to the following:

(A) DFD shall arrange a meeting with the county agency director or the municipal agency director to discuss the unsatisfactory performance.

(B) When it is determined that, after meeting with the agency director, barriers for improvement remain and cannot be resolved, DFD shall advise

the county or municipal governing authority, in writing, of its finding concerning the unsatisfactory performance of the county or municipality, as appropriate.

(C) If after all contact with the county or municipal governing authority, the DFD determines that the situation cannot be resolved internally, DFD shall proceed to advise the county or municipal governing authority, in writing, of the unsatisfactory status of the county or municipal operation, and the necessity for the county or municipal agency to take immediate corrective action measures, subject to the consent and approval of the Commissioner to resolve the unsatisfactory situation.

(D) When it is determined that, in the case of a county administering the WFNJ/GA program, despite DFD's intervention efforts, barriers for improvement remain and cannot be resolved, the State shall notify the county, in writing, of its intent to assume direct administration of the WFNJ/GA program in accordance with provisions at N.J.A.C. 10:84-1.4.

(E) When it is determined that, in the case of a municipality administering the WFNJ/GA program, despite DFD's intervention efforts, barriers for improvement remain and cannot be resolved, the State shall advise, in writing, of its intent to require the municipality to transfer administration of the WFNJ/GA program to the county agency. Final notification from the Commissioner shall be made, in writing, within 30 days of the mailing date of DFD's initial communication to the municipal governing authority. The notice shall include the basis for the State action to transfer the program and the date the State's action to transfer is expected to commence.

10:90-12.6 State fair hearings for action of the State to transfer WFNJ/GA from the municipality to the county

(a) Any municipality that wishes to appeal a decision by the State to transfer municipal WFNJ/GA operations to the county is entitled to request a State fair hearing within 10 days of the mailing date of the notice advising of the impending State action. The request shall be made, in writing, to DFD's Bureau of Administrative Review and Appeals (BARA) by the municipal agency director, or by a representative of the municipal governing authority.

1. When a request is received by BARA, it shall immediately be registered as of that date.

2. All hearing requests shall be transmitted to the Office of Administrative Law (OAL) for a hearing before an Administrative Law Judge (ALJ).

(b) The OAL shall schedule the hearing and send any necessary notices to all appropriate parties concerned. The hearing shall be conducted by an ALJ who shall issue an initial decision.

1. Any adjournment of a scheduled OAL hearing requested by the municipality and granted by the OAL may not operate to extend the deadlines for a final decision and implementation of the final decision.

2. Failure to appear for a scheduled hearing without proper notice, and failure to submit an explanation for the nonappearance within 10 days of the scheduled hearing date, shall result in the issuance of an initial decision without a hearing. The State may amend or reverse its decision to transfer at any time before or during the OAL hearing or the hearing may be withdrawn at any time before or during the hearing upon satisfactory reconciliation of the matter at issue.

(c) The municipality shall be provided the opportunity to review the State documents and/or records to be used in the OAL hearing. Such materials shall be made available by the State, upon request at a reasonable time before the scheduled hearing date as well as during the hearing.

(d) The municipal director, or a representative of the municipal governing authority, may appear at a proceeding with or without legal representation.

(e) A final administrative hearing decision shall be rendered by the Commissioner of DHS or designee. The municipal agency shall be notified by mail of any decision or order. The final decision shall be effective on the date of issuance.

1. The municipality may appeal the final decision rendered by the Commissioner of DHS or designee through the Appellate Division of the Superior Court, however, such appeal shall not delay implementation of the final decision.

10:90-12.7 State fair hearings for action of the State to assume administration of WFNJ/GA from the county

Refer to 10:84-1.5 for any county that wishes to appeal a decision by the State to assume administration of WFNJ/GA.

10:90-12.8 Obligation to provide assistance

It is the basic obligation of every municipality in the State, which elects to continue to administer the WFNJ/GA program, to provide financial assistance and medical care, to the extent established by State regulations and as State resources permit, for all eligible persons living in that community who are in need.

10:90-12.9 Organization of local assistance board

(a) Each municipality that chooses to maintain its operation of the WFNJ/GA program through adoption of a resolution shall organize a local assistance board (LAB); specifies the composition of the board and the terms of the office; empowers the LAB to appoint a director of welfare; and authorizes the municipality to appoint any other necessary employees. These requirements are mandatory upon every municipality. Where the organization of a LAB is not a requirement under a Faulkner Act municipality, the entity or official designated to serve instead of the LAB should be so recognized. Therefore, the designated alternate shall represent in meaning, the LAB as set forth throughout this chapter, except in LAB membership composition, appointment of agency director and/or other duties that are not appropriate under such structure.

1. Municipalities governed under an optional form of government pursuant to the Faulkner Act are referred to in this manual as Faulkner Act municipalities. During the transition period to such optional form, the municipal governing body will determine whether the LAB is to be continued or abolished and will act accordingly. After the transition period the governing body may abolish the LAB only by adoption of the appropriate ordinance.

(b) The LAB shall be composed of either three or five members, as determined by the municipal governing body. On both a three-member board and a five-member board, at least one member must be a woman. While it is not mandatory for a member of the municipal governing body to serve on the LAB, the law prohibits the appointment of more than one such member. Members of the LAB shall serve without compensation but will be allowed necessary and actual expenses.

1. In Faulkner Act municipalities, the municipal governing body may, by adoption of an appropriate ordinance, reorganize the LAB and/or adjust the terms of office of the members. In such event, the LAB shall, nonetheless, be composed as described in this section.

2. Terms of office rules are:

i. For municipalities with a board of three members, the term of one member shall be for one year only, and such one-year term must be assigned to the member of the municipal governing body if there is one. The other two members serve terms of two years each, with expiration dates staggered in order to expire at the end of alternate years.

ii. For municipalities with a board of five members, one member shall serve a term of one year only, and such one-year term must be assigned to the municipality governing body representative if there is one. The other four members serve terms of four years each. Such terms are staggered in order that only one expires at the end of each successive year.

iii. The term of each member of the LAB shall begin on January 1. When a vacancy occurs before the expiration of a term, the new member serves only the unexpired portion of the term of the person he or she is replacing.

iv. When circumstances such as illness or a governmental irregularity preclude timely appointment of a new member, the incumbent shall continue until such new appointee can take office.

v. Annually at the first of each year, each LAB shall organize and select, from among its membership, a chairman and a secretary. The agency director shall be the chief administrative officer of the board.

(c) Each municipality that administers WFNJ/GA shall submit annually a certification form, Status Report for Calendar Year (WFNJ/Form GA-15), to DFD signed by the municipal clerk and attesting to the appointment of the board members, if any, and the agency director. The agency director shall be responsible for informing the municipal clerk and other appropriate local officials regarding the required certification, and arranging for the completion of the Status Report and filing same with DFD on or before March 1 of the year to which the certification applies.

1. Prior to January 1 of the next calendar year, three copies of Form WFNJ/GA-15, with necessary instructions, shall be distributed by DFD to agency directors.

2. Municipalities which fail to submit the required certification in accordance with specified instructions shall not be eligible to receive State financial aid for the ensuing year.

(d) Rules concerning the appointment of the agency director are:

1. Under law, the LAB is solely responsible for the appointment and reappointment of an agency director. Appointment shall be by formal action of the board at a regular or special meeting and such action duly recorded in the minutes. All appointments and reappointments to the position of agency director require the approval of the DFD.

2. In Faulkner Act municipalities where no LAB exists, the authority to appoint the director, with approval of the governing body, is as follows:

i. The Manager has the authority to appoint in a Council/Manager form of government.

ii. The Mayor has the authority to appoint, either directly or through his or her appointed department head should the director not be the head of a department, in a Mayor/Council form of government.

iii. The Mayor has the authority to appoint in a small municipality form of government.

3. Qualifications for agency director are as follow:

i. Regardless of the population of a municipality, the duties of an agency director are such that it is essential that the LAB select a person who has the respect of the community, is concerned about needy persons, and has had training and experience in the public or private welfare field.

ii. A candidate for director should have education and experience commensurate with the duties of the office and the administrative responsibilities necessitated by the extent of the WFNJ/GA caseload. Graduation from a college or university and/or courses for credit in public welfare administration or social work are desirable qualifications. However, consideration may be given to a candidate who has at least graduated from high school, and has had two years experience in public or private welfare work or equivalent experience in such related fields as teaching, guidance, nursing, or personnel work.

iii. In situations where the LAB cannot locate a candidate possessing the qualifications enumerated above but nevertheless has a candidate whom it believes capable to function adequately as an agency director, action may be taken as provided in (d)5iii below.

4. The agency director shall be appointed for a full term of five years or a temporary term not to exceed 90 days. Appointment for any other period is prohibited.

i. A full-term appointment shall be for a period of five years, beginning from the date of appointment. When a vacancy occurs and a new director is duly appointed and approved before the expiration of a previous director's term, the new appointee's term of office begins on the date of his or her appointment and continues for five years; it is not limited to the unexpired term of his or her predecessor.

ii. In case of a vacancy in the office of an agency director, one temporary or acting director may be appointed for a term not to exceed 90 days. Such appointment is not subject to extension or renewal.

(1) NOTE: A protracted illness of whatever duration, so long as it does not exceed the individual's term of office, shall not be construed as a vacancy; however, the LAB may appoint an acting agency director where necessary. The prohibitions of (d)7 below apply to acting directors. Members of the municipal governing body are not eligible for appointment as acting directors.

(2) The temporary appointee may be a member of the LAB, preferably the chairman, a subordinate employee of the agency, or any other person deemed competent to serve as temporary director and so designated by the LAB. The prohibitions of (d)7 below apply to temporary appointees. Members of the municipal governing body are not eligible for temporary appointment.

(3) The appointment of a temporary agency director is an interim measure to ensure the efficient functioning of the welfare agency until a full-term director can be appointed by the LAB and approved by DFD. The LAB is required to notify DFD immediately, in writing, of the name and address of the temporary designee and the date he or she has or will take office. If the temporary director is not to be selected for a full five year term, it is not necessary to submit Form WFNJ/GA-14, Request for State Approval of Municipal Agency Director.

iii. The appointment of a director to a municipal agency, in which the WFNJ/GA program is consolidated into the county agency, shall expire on the effective date of the consolidation, whether the appointment is full-term or temporary.

iv. Reappointment of an incumbent director at the expiration of a current five-year term is solely the responsibility of the LAB. Upon decision of the board to reappoint the incumbent for a full five-year term, the secretary of the LAB will notify the DFD. After receipt of DFD approval, formal action will be taken at a regular or special board meeting and duly recorded in the minutes. In such case, submittal of another Form WFNJ/GA-14 to DFD is not necessary.

(1) Should the LAB decide not to reappoint the incumbent director, or should he or she decline Reappointment, it shall be the responsibility of the board to select promptly a new full-term candidate and to secure approval of the DFD (as described in (d)5 below) or to designate a temporary director while a qualified full term candidate is being sought.

(2) Regardless of the type of appointment made, the LAB shall act to assure that the position of director does not remain vacant at any time.

v. Removal of the director from office must be by official action of the LAB and based upon appropriately documented evidence of mismanagement or wrongdoing.

5. Formal appointment to the position of director for a full term is valid only after the candidate's qualifications have been submitted to and approved by DFD.

i. For purposes of securing State approval of a full-term candidate designated by the LAB, the individual shall prepare, in triplicate, Form WFNJ/GA-14, Request for State Approval of Municipal Agency Director, which is certified by the secretary of the LAB. The original shall be submitted to DFD for approval. Copies will be retained in the board's personnel file and by the candidate. (Form WFNJ/GA-14) is available upon request from DFD.)

ii. After receipt of Form WFNJ/GA-14 by DFD, the candidate will be interviewed by a representative of DFD. Questions relevant to the candidate's qualifications will be reviewed with the chairperson of the LAB. A written decision regarding the candidate's qualifications and DFD approval or disapproval will be sent to the secretary of the LAB.

iii. While it is preferable that a candidate for the position of full-term director possess all of the requisite education and experience, the LAB, after failure to find a properly qualified person (see (d)3 above), may recommend an otherwise qualified individual. In such instance, the secretary of the LAB shall submit the Request for State Approval of Municipal Agency Director, accompanied by a letter which includes an account of the efforts made to locate a qualified candidate, the reasons for which the candidate merits consideration, and indication of his or her intention to take advantage of available opportunities for additional training or study.

iv. If the qualifications of a new candidate for the full term position of director have been duly approved by DFD prior to the expiration date of the term of the incumbent director, the LAB may formally appoint the candidate for the full term of office without making an initial "temporary appointment."

6. The municipal agency director is responsible for ensuring equitable and efficient administration of WFNJ/GA within the community, in accordance with standards and policies set forth in this chapter. The agency director is accountable to the LAB. His or her duties and responsibilities include the following:

i. Determinations and redeterminations of eligibility of applicants for and recipients of WFNJ/GA, and determination of the nature and amount of the benefit issued.

ii. Initiation of action to help clients obtain an adequate standard of living, receive essential aid through other agencies or individuals and become self-supporting.

iii. Arrangements for the custodial care by the State, county or competent persons of clients when it is in the best interest of such individuals and the community.

iv. Direction of daily and overall operations of the local agency, including maintenance of records for accounting and statistical purposes relevant to the public assistance program.

v. Supervision of other personnel employed by the local agency.

vi. Functioning as liaison officer between the LAB and DFD.

vii. Maintenance and protection of all records and appropriate documents required by DFD.

7. The director or any employee of the municipal agency shall not:

- i. Seek or hold any elective governmental office, be a member of a county committee of any political party, serve on a local election board, or hold office in a political club. (These limitations are not relevant to elections or positions which are clearly outside of the political process, such as local school board elections);
- ii. Divulge, or make available for political purposes, the names of persons receiving WFNJ/GA;
- iii. Engage in any political activity for the purpose of influencing the political action of or in any way exploiting applicants for or recipients of WFNJ/GA;

(e) The salary of the agency director shall be set by the LAB, subject to approval of the municipal governing body. The setting of salaries of other employees shall be the responsibility of the governing body.

(f) The LAB is responsible for establishment of the official municipal agency office and designation of hours of operation.

- 1. The office of the municipal agency shall be in a location accessible to the general public and adequate for efficient operation.
- 2. The office of the municipal agency shall be open to the public a minimum of three hours a day during the five-day work week to take applications for assistance and to provide emergency assistance. Additional arrangements shall be instituted by the LAB to ensure that someone is accessible to the public seven hours a day during the five-day work week to take applications for assistance and provide emergency assistance, and that persons in need of assistance are served without delay at times other than normal office hours.
 - i. Each municipal agency office shall be required to post a sign(s), in a conspicuous place(s), which lists the telephone number(s) and the person or agency available to handle emergencies beyond normal office hours.

(g) The LAB shall act as a body in discharging its duties. A board member shall not individually take upon himself or herself the responsibility for creation of policy, investigation of a client or disclosure of data contained in a case record. Actions taken by the LAB on all matters pertaining to the administration of WFNJ/GA shall be discharged by the board at regular or special meetings and recorded in the secretary's minutes. Functions and activities of the LAB include the study of employment possibilities in local industry, health, housing, and social conditions of the community. Analysis of municipal financial needs, insofar as they are related to WFNJ/GA, shall also be a matter of concern to the LAB.

1. The LAB shall undertake the following additional activities:

- i. Seek and utilize opportunities to interpret to the community the purposes of the WFNJ/GA program as provided by law, and the needs of the community as revealed through the LAB's experience with the administration of the program.
- ii. Confer with the director on concerns, criticisms or recommendations coming to it from citizens in the community.
- iii. Meet with individuals and organizations interested in the administration of the assistance program.
- iv. Accept and act upon complaints relating to the administration of the WFNJ/GA program when submitted to the board, in writing, prior to its meeting.
- v. Review problem cases presented by the director for discussion.
- vi. Make recommendations as to the adequacy in number and qualifications of personnel for the administration of the program.

2. Specific duties of the local assistance board include, but are not limited to, the following:

i. The LAB shall provide space within the municipal office for the proper protection and maintenance of all reports, case records and any other materials essential to the administration of WFNJ/GA.

(1) Access to case records shall be granted by the LAB, through the agency director, only to the following persons: employees of the municipal agency acting in an official capacity; representatives of another recognized public or private health or welfare agency, organization or institution for the purpose of obtaining information relevant to providing service to a current or former recipient of WFNJ/GA or to a member of his or her family; the client or his or her representative, in accordance with N.J.A.C. 10:90-9.11 and authorized representatives of the DFD relevant to State audits and quality control reviews.

(2) As a matter of policy, only the agency director or the LAB, by formal action and for a just cause, shall authorize the removal of a case record from the office.

(3) Information may be released to authorized persons for statistical purposes but shall not bear the name of the public assistance recipient or any other indication of his or her identity.

ii. Responsibility is vested in the LAB to safeguard the applicants for and/or recipients of public assistance from discrimination by municipal agency employees and vendors who provide services to clients. Any discrimination based upon race, color, sex, religious creed, national origin, marital or birth status, political beliefs

or disability is unlawful and subject to appropriate action (see N.J.A.C. 10:90-1.7).

(h) Nothing in this section shall be construed so as to allow access to confidential information beyond that authorized in N.J.A.C. 10:90-1.11.

(i) In Faulkner Act municipalities where no LAB exists, the authority, duties and responsibilities of the LAB resides with the Mayor or Manager as applicable to the form of government. Functions of the Secretary of the LAB are assumed by the municipal clerk.

10:90-12.10 Appointment of employees

Employees for the municipal agency shall be appointed by the governing body in accordance with municipal ordinances and in numbers adequate for the proper administration of the WFNJ/GA program. While the LAB shall appoint the agency director, the municipal governing body is responsible for the appointing of department staff.

10:90-12.11 Establishment of Public Assistance Trust Fund Account

(a) The governing body of the municipality shall establish a bank account titled "Public Assistance Trust Fund Account," with the municipal treasurer or other designated official as custodian (see N.J.A.C. 10:90-14.3).

(b) The governing body of the municipality may, at the request of the LAB, establish a Public Assistance Petty Cash Fund Account. Such fund shall be established and operated in accordance with N.J.A.C. 10:90-14.6.

SUBCHAPTER 13. MEDICAL SERVICES FOR WFNJ SINGLE ADULTS AND COUPLES WITHOUT DEPENDENT CHILDREN (WFNJ/GA)

10:90-13.1 Payment of medical service claims

(a) Claims resulting from medical services provided to WFNJ/GA recipients, on or after February 1, 1997, shall be processed and paid by the New Jersey Division of Medical Assistance and Health Services (DMAHS) through its fiscal agent, in accordance with the rules appropriate for the services rendered (see N.J.A.C. 10:49). Payment of claims submitted to the fiscal agent for medical services covered under the WFNJ/GA program shall be based upon the Medicaid reimbursement methodology for the respective services. Those medical services identified at (a)2 below shall not be considered eligible for payment by the fiscal agent for WFNJ/GA program purposes.

1. Medical service claims with service dates on or after February 1, 1997 shall be submitted directly to the fiscal agent by the medical provider/vendor for payment processing. The original claim must be received by the fiscal agent within the time frame of one year from the date the service was rendered or the product was provided. If the original claim is not received by the fiscal agent within the one year time frame the claim shall not be processed for payment.

i. The provider/vendor shall direct all concerns relating to the payment or processing of WFNJ/GA medical service claims to the fiscal agent.

(1) A provider/vendor may, however, contact the agency in which the WFNJ/GA recipient is receiving assistance to ascertain information concerning WFNJ/GA policies, coverage of services and/or eligibility.

ii. Medical service claims, except for prescription claims, with service dates prior to February 1, 1997 shall be processed by the county/ municipality. Such claims, however, must be received by the county/ municipality within a time frame of six months from the date the service was rendered in order for that claim to be considered eligible for payment processing.

2. The following services are not considered eligible medical services for WFNJ/GA program purposes and shall not be processed for payment by the fiscal agent:

i. Inpatient or outpatient hospital services/care provided in a hospital either in-State or out-of-state, including, but not limited to, psychiatric hospitals, acute care hospitals, special hospitals, rehabilitation hospitals, Christian Science sanatoria and county or State hospitals;

(1) Exception: Inpatient hospitalization at Mt. Carmel Guild in Newark is an eligible medical service for the WFNJ/GA program.

ii. Professional services rendered to residents in public/private medical institutions;

iii. Mental health case management;

iv. Professional services to WFNJ/GA clients residing in residential treatment centers for drug or alcoholic abuse;

v. Nursing facility per diem payments for individuals residing in Medicaid approved nursing facilities;

(1) See N.J.A.C. 10:90-13.3 concerning per diem payments for WFNJ/GA clients residing in non-Medicaid nursing facilities on or prior to June 30, 1995;

vi. Early and periodic screening, diagnosis and treatment (EPSDT) services;

vii. Services provided under a home and community based services waiver, in accordance with Section 1915(c) of the Social Security Act, 42 U.S.C. 1396n;

viii. Managed care services;

ix. Transportation for medical services provided under contract with a vendor or through a contract with the county agency;

x. Medical services payable through other health insurance coverage, no-fault insurance benefits, or any other type of insurance/benefit coverage;

(1) Medical service bills shall be submitted to the appropriate primary carrier prior to being submitted for payment consideration through the fiscal agent;

xi. Methadone maintenance services;

xii. HealthStart maternity and pediatric care services including comprehensive medical and health support service packages;

xiii. Hospice services provided in a nursing facility;

xiv. Maternity services provided by any type of provider including, but not limited to physicians, certified nurse specialists/clinical nurse practitioners, certified nurse-midwives and clinics;

xv. Medical day care services; and,

xvi. Medical bills, which have been paid by the client or on his or her behalf.

3. The director of the county/municipal agency may authorize payment of other medical insurance premiums.

4. Prior authorizations required under the Medicaid program shall also be applicable for WFNJ/GA program purposes.

5. The municipality shall be billed for the administrative costs associated with the processing and payment of WFNJ/GA medical service claims by the fiscal agent in accordance with the procedures set forth at N.J.A.C. 10:90-4.8.

10:90-13.2 Obtaining medical services

(a) The county/municipality shall provide the WFNJ/GA recipient with a current validation card or letter which will be utilized to obtain treatment by a Medicaid participating provider/vendor. The agency shall supply a validation card or letter to each WFNJ/GA recipient at time of opening or reopening of the case and monthly thereafter to ensure validity through all periods of assistance eligibility. The size and layout of the validation card or letter are optional. Each card or letter must contain, at a minimum:

1. The name, address, phone number and four-digit municipality code of the agency;

2. The first and last name(s) of the client(s) for whom the card or letter applies;

3. The required six-digit case number and two-digit person number. If the case number does not contain six digits, zeros are to be placed in the front of the case number to accommodate the entry. A two-digit person number (that is, 01, 02, and so forth) must be used to identify the person in the eligible unit for whom the services are to be provided. The person number 01 should be used to reflect the person whose name appears on the case name and person number 02 reflects the person who resides with the case name person in a marital relationship or who represents themselves as a couple to the community;

4. The expiration date;

5. A notice to client as follows: This validation form indicates eligibility for WFNJ/GA benefits and is to be presented to the Medicaid participating provider when you require medical services;

6. A notice to Medicaid participating provider/vendor as follows: Please complete the appropriate claim form according to Medicaid policies and procedures and forward the claim directly to the Medicaid fiscal agent for claim processing and payment.

(b) Claims for medical services eligible under the WFNJ/GA program shall be processed and paid by the fiscal agent when such services are provided by Medicaid approved providers.

1. When a WFNJ/GA recipient requires medical services from a provider and an appropriate clinic is not available to provide such services without charge, the client shall have the opportunity to select a Medicaid participating provider of his or her own choice. A representative of the agency may assist the client in obtaining an appropriate Medicaid participating provider.

10:90-13.3 Nursing facility payments

(a) The agency director shall authorize payments for patient care and allow for a personal needs allowance (PNA) for those clients who were residing in a non-Medicaid nursing facility on or prior to June 30, 1995 when a physician certifies that the client has a defect, disease, or impairment (other than psychosis) which necessitates such care, the client is not eligible for Medicaid, or for nursing facility services under the Medically Needy Program, and there is no person available who will provide such care without cost to the client. Those WFNJ/GA recipients shall continue to receive WFNJ/GA nursing facility benefits until such time as the WFNJ/GA nursing facility benefits are no longer required, or when the client is no longer eligible to receive such WFNJ/GA benefits as long as the client remains in the same non-Medicaid nursing facility.

1. Physician certification shall be accomplished by means of Form GA-18, Certification of Need for Patient Care in Facility Other than Public or Private General Hospital. This form shall be completed in duplicate, by

the attending or staff physician and the operator or superintendent of the appropriate facility. One copy shall be submitted to DFD for determination of nursing facility care and subsequently, filed in the case record and the other copy shall be retained by the nursing facility or institution.

2. Payment to the non-Medicaid facility shall not exceed the rates established by DFD for that facility. The county/municipality shall contact DFD to obtain the per diem rate for room, board and nursing care. A PNA of \$35.00 per month shall be allowed to the resident.

i. To determine the all inclusive rate the agency shall be authorized to pay the non-Medicaid nursing facility, the agency shall calculate the non-Medicaid facility rate established by the DFD times the number of days of care for the month less the payment by or on behalf of the client. Each month the agency will obtain a current bill for all services rendered during the previous month.

(1) The agency shall authorize per diem payments for periods of up to 10 days during which the client is temporarily absent from the facility for hospitalization, or for periods of up to 25 days in a calendar year for therapeutic visits.

ii. Prescription drugs, laboratory, x-ray, physician, dental, podiatry services and supplies are not included in the nursing facility per diem rate. Payment for such services rendered shall be paid directly to the provider by the fiscal agent in accordance with the rules and regulations appropriate for the services rendered (see N.J.A.C. 10:49).

SUBCHAPTER 14. FISCAL PROCEDURES FOR WFNJ SINGLE ADULTS AND COUPLES WITHOUT DEPENDENT CHILDREN (WFNJ/GA)

10:90-14.1 Statutory authority

(a) Under the provisions of N.J.S.A. 44:8-111, the Commissioner is empowered to make and to enforce rules and regulations governing the provision of WFNJ/GA.

(b) Further, N.J.S.A. 44:8-112 provides that the Commissioner may require keeping of records and submission of reports, and investigate the administration of public assistance within each municipality.

1. In accordance with the foregoing authority, this chapter sets forth the fiscal regulations, procedures and policies which must be uniformly observed in the administration of WFNJ/GA by counties/municipalities in order to qualify for State aid.

2. All agencies must comply with current fiscal procedures as established by the Division of Local Government Services in the Department of Community Affairs and other applicable accounting and internal control procedures.

(c) The Commissioner reserves the right to approve county/municipal agency budgets.

1. With respect to municipalities, approvals shall be contingent on the municipal agency's submission and the Division of Family Development's (DFD's) approval of the budget and Form GA-15, where required. The entire municipal budget cannot be approved until DFD has approved the welfare budget.

10:90-14.2 State financial participation

(a) In accordance with P.L. 1990 c. 66, the amount of State aid for WFNJ/GA which an approved county/municipality may receive shall equal 100 percent of the amount of county/municipal funds approved for public assistance.

(b) The State shall reimburse the county for 100 percent of the administrative costs incurred for providing cash assistance benefits to eligible single adults and couples without dependent children up to the maximum amount allocated for that county by the Commissioner within the limits of available funds.

(c) A municipality which continues to administer WFNJ/GA pursuant to the provisions of P.L. c. 35, shall be responsible for all administrative costs of providing benefits to eligible single persons and couples without dependent children.

10:90-14.3 Public Assistance Trust Fund Accounts

(a) The law provides that every payment made to a county/ municipality as State Aid for WFNJ/GA, including all moneys received as a refund or in restitution of any year's assistance expenditures, shall be made payable to the Chief Financial Officer (CFO) of the county agency or the treasurer (but not by name) of the municipality and deposited by him or her in the Public Assistance Trust Fund (PATF) Account. Municipalities that administer the WFNJ/GA program shall be required to maintain both a PATF I and a PATF II account. Counties which administer the WFNJ/GA program will be required to maintain one PATF.

1. A municipality which has received State aid shall not close out its PATF Accounts at the end of that fiscal year. Municipalities shall maintain PATF accounts in order to qualify for State Aid.

2. Procedures in non-transferability of funds are the following:

i. Under no circumstances shall payments made to a municipality as State aid for WFNJ/GA in the current or prior years be deposited or transferred to the municipal current account or used for any purpose other than public assistance grants exclusive of administrative costs. Transfers from PATF I to PATF II are not barred by this subsection. Transfer of surpluses arising from municipal appropriations in prior years is not barred by this regulation.

ii. When the WFNJ/GA program has been transferred to the county, the PATF I balance, with the approval of DFD/Bureau of Business Services (BBS), may be transferred to the municipal current fund and the account closed.

3. State aid advances shall be deposited in the PATF II Account.

4. All payments received by a county/municipality or any other agency from or on behalf of current or former recipients shall be deposited in the "PATF Account", and entered on Statement of Refunds (Form WFNJ/GA-12) and duly accounted for on a monthly basis.

i. Refunds and other receipts shall be separated and deposited as follow:

(1) Deposits to the PATF I Account shall include any municipal appropriation for non-WFNJ/GA eligible assistance, certain miscellaneous donations, and refunds of non-WFNJ/GA assistance.

(2) Deposits to the PATF II Account shall include State aid advances for expenditures eligible for 100 percent State aid, refunds of all 100 percent reimbursed assistance (to include fraud recoveries, insurance recoveries, vendor repayments, and so forth) and Supplemental Security Income (SSI) Interim Assistance checks.

ii. Each county/municipal agency is required to prepare Form WFNJ/GA-12. Refunds are separated according to items eligible and ineligible for State participation and completed in accordance with instructions provided on the reverse side of Form WFNJ/GA-12. SSI retroactive grant awards received from SSA and reported on Form WFNJ/GA-31 and State Aid payments do not get reported on Form WFNJ/GA-12. Form WFNJ/GA-12 shall be distributed as follows:

(1) The originals are to be submitted to the agency's auditor at the time of annual audit.

(2) A copy forwarded to DFD/BBS each quarter (even if there are no refunds) by the end of the following month.

(3) A copy is to be retained by the county/municipal agency.

(4) A copy is to be provided to the chief financial officer and/or treasurer of the county/municipality.

iii. State aid shall be adjusted for refunds of assistance eligible for State participation.

(b) Disbursement may be made from the PATF Accounts only for payment of public assistance costs, exclusive of administrative costs. Disbursements will be made on the authority of the county/municipal treasurer or other authorized official.

1. Types of disbursements authorized from PATF I Account are limited to:

i. Payment to clients or to vendors providing authorized services to WFNJ/GA clients of public assistance costs not eligible for State aid;

ii. Replacement checks; and

iii. Payment to replenish the PATF I petty cash account.

2. Disbursements from the PATF II Account are limited to:

i. Payment to WFNJ/GA clients or to vendors providing authorized services to WFNJ/GA clients of public assistance costs eligible for 100 percent State aid;

ii. Payment to establish or replenish the PATF II Petty Cash Fund Account; and

iii. Payment of SSI proceeds to SSI recipients, the Social Security Administration, or other county/municipal agencies from which the SSI recipient received Interim Assistance and completed a Form WFNJ/GA-30.

3. Those counties/municipalities which issue checks in direct payment of assistance to eligible persons shall arrange their fiscal procedures so as to result in the delivery of all initial and regular checks on the first day of each period of eligibility and the delivery of replacement checks which are issued within five working days of receipt of notification from the client that the assistance check has been lost or stolen, unless extraordinary circumstances are present, and a longer period of time is approved by DFD.

10:90-14.4 Fiscal and statistical reporting requirements

(a) Forms described in this subsection shall be completed and either submitted to DFD, as indicated, or retained by each county/municipality approved to receive State aid in the WFNJ/GA program agency. Use of the forms described herein is required.

1. Each application shall be entered on the Application Register (Form WFNJ/GA-7) and shall be maintained by the agency on an updated basis. The Application Register is subject to review by representatives of the DFD.

2. Form WFNJ/GA-6 (Report of Assistance Expenditures and Case Activity), accompanied by Form WFNJ/GA-6A (Statistical Summary), shall be submitted on a

monthly basis to the DFD/BBS within 10 days after the end of the assistance month.

i. Cases must be listed in sequential order according to case number and employability status. Case numbers for all employable cases must be identified with an "E" prefix and all unemployable cases must be identified with a "U" prefix. Cases that are classified as employable must be listed first, followed by the unemployable cases. At the end of each page, totals must be indicated for the number of cases opened, the number of cases closed, the number of single persons aided, family case persons aided, and the commitments reported for each category (Maintenance, Hospitalization, Nursing Home, and so forth). On the bottom section of any WFNJ/GA-6 page that lists both "E" prefixed and "U" prefixed cases and on the final page, totals must be segregated for employables and unemployables, and be followed by a combined page total (grand totals on final page).

ii. The list shall include all cases for which assistance was paid during the calendar month of the report and for which the reporting county/ municipality is financially responsible. Payment for medical services incurred prior to February 1, 1997 must be reported on the Form WFNJ/GA-6 for the month in which the payments are actually made, regardless of the date of authorization. Column 1-C (Social Security Number) must be completed monthly.

3. Procedures for the use of the Statistical Summary (Form WFNJ/GA-6A) are as follows:

i. Form WFNJ/GA-6A is a summary of data contained on Forms WFNJ/GA-6 and WFNJ/GA-7. Form WFNJ/GA-6A must be submitted in order to identify assistance paid that is eligible for 100 percent State aid. Items on WFNJ/GA-6, WFNJ/GA-6A and WFNJ/GA-7 must correspond for use in computing other statistical data. Section VI of Form WFNJ/GA-6A must include information on the monthly total numbers and costs of salaried employees related solely to the administration of the source of funds;

ii. All information supplied refers to the assistance month or, when applicable, to data derived from the month immediately preceding;

iii. The "Certification of Director of Welfare" section of Form WFNJ/GA-6A shall be signed by the director of welfare before submittal to DFD.

iv. Form WFNJ/GA-6A and supporting Form WFNJ/GA-6 may be amended up to 90 days after the close of the county/municipal fiscal year.

4. All agencies are required to submit, electronically or manually (prior to January 1, 1998), data concerning actions taken on WFNJ/GA. Those agencies which do not have computer capabilities to report data electronically, shall, at the end of every business day, complete a WFNJ/GA-48, General Assistance-Data Input, for each case when any of the following actions are taken:

- i. Opening of a case;
- ii. Closing of a case;
- iii. Denying a case;
- iv. Imposing a sanction;
- v. Changing a homeless code;
- vi. Reopening a case;
- vii. Changing a case type (employability status); or,
- viii. Issuing a payment on a case.

5. Effective January 1, 1998, all agencies must submit fiscal data through electronic means (see N.J.A.C. 10:90-12.3(c)).

6. Form WFNJ/GA-535Q (WFNJ General Assistance Quarterly Financial Report) is to be prepared and submitted quarterly and Form WFNJ/GA-535A (WFNJ General Assistance Annual Financial Report) is to be prepared and submitted annually. The quarterly report is to be submitted to the DFD/BBS on April 30, July 31, October 31 and January 31 for the previous quarter. The annual report is due 31 days after the end of the agency's fiscal year (either 6/30 or 12/31). These reports must be signed and dated in the section "Certification of CFO and Director of Welfare" by the county/municipal fiscal officer and the agency director before submitted to DFD. These reports must agree with the respective original or amended WFNJ/GA-6A, WFNJ/GA-12 and WFNJ/GA-31 for the reporting months/quarter.

10:90-14.5 Reimbursement of assistance for cases pending SSI entitlement

(a) A contractual agreement between the Social Security Administration (SSA) and the State of New Jersey provides for reimbursement to DFD for assistance granted to individuals while awaiting an initial SSI eligibility determination or during the period of time in which a client is awaiting a reinstatement of terminated or suspended SSI benefits. In such instances, the SSA/District Office (DO) may refer such persons to the agency for WFNJ/GA.

(b) When the SSA/DO refers an individual to the county/municipal agency, such referral shall be made on the form entitled Social Security Referral for Services, two copies of which shall be given to the client to take to the agency.

1. If the application for WFNJ/GA results in denial, the county/ municipal agency shall file both copies of the referral form in the case record and take no further action. If the application for WFNJ/GA is approved, one copy of the referral form shall be retained by the agency in the case record, and the other returned to the SSA/DO with a letter stating that the individual concerned is receiving WFNJ/GA.

(c) When an individual is about to apply or has already applied for SSI, or is awaiting a reinstatement of terminated or suspended SSI eligibility, the agency shall require that he or she sign Form WFNJ/GA-30, "Authorization for Reimbursement of Initial Supplemental Security Income (SSI) Payment, or Initial SSI Posteligibility Payment," and Form WFNJ/GA-30A, "Agreement to Repay Assistance from Initial SSI Payment," before granting assistance. These forms pertain to the client's obligation to repay the agency for assistance (including Emergency Assistance/Temporary Rental Assistance) granted during the interim pending the client's SSI initial or posteligibility entitlement. The WFNJ/GA-30 is prepared in triplicate and forwarded to the SSA as described in (c) below. This form authorizes the SSA to forward a client's initial or initial posteligibility SSI benefit award payment directly to the treasurer of an agency so that repayment of assistance may be accomplished. A copy of Form WFNJ/GA-30A is prepared at the time of application and is retained in the case record. This form contains a repayment agreement which is to be enforced in cases in which, for whatever reason, the initial, or initial posteligibility SSI payment is sent directly to the client.

1. Completed and signed WFNJ/GA-30 forms shall be submitted by registered mail to SSA/DO within 24 hours of the date the client signs the authorization form and routed in accordance with the following provisions.

- i. Form WFNJ/GA-30 shall be prepared in triplicate, with the front side of each copy signed by the client and the reverse side signed by the agency director;
- ii. The original form shall be submitted to SSA/DO;
- iii. The first copy shall be retained in the agency's files; and
- iv. The second copy shall be given to the SSI client.

2. When both spouses are applying for SSI, separate sets of the WFNJ/GA-30 and the WFNJ/GA-30A shall be completed for each individual.

3. In any case in which the retroactive SSI check is sent directly to the client, the agency shall compute the reimbursement due in accordance with (d) below and shall seek repayment from the client on the basis of the WFNJ/GA-30A agreement. The WFNJ/GA-30A is to be prepared in duplicate, the client is to receive a copy, and the original is to be retained in the agency's file.

(d) Since the initial check received by the CFO/treasurer will cover the initial retroactive or initial posteligibility SSI award for one eligible person only, deductions when both spouses are involved shall be computed as follows:

1. When both spouses filed and both are found eligible for SSI, the amount of Interim Assistance previously granted to each individual is deducted from his or her separate SSI award;
2. When both spouses filed and only one is determined eligible, the amount of the eligible person's portion of the

Interim Assistance payment shall be deducted from the SSI award;

3. When only one spouse is found eligible and the other spouse is designated as an "ineligible spouse," the amount of Interim Assistance received by both persons shall be deducted from the amount of the SSI award.

(e) Rules concerning remittal of balance of SSI award to clients are:

1. Form SSA-(L)8125, Social Security Administration Supplemental Security Income Notice of Interim Assistance Reimbursement, provides the necessary information (SSI eligibility date, payment summary, client's address) to permit distribution of any proceeds due the client from the initial SSI award check, which shall be done as follows:

i. If a month is not listed on the "Payment Summary" segment of the SSA-(L)8125 form, the agency shall not recoup payment of interim assistance provided for that month.

ii. Form SSA-(L)8125 shall be appropriately completed, signed, dated and mailed to the New York SSA office no later than 30 calendar days after the Treasurer's receipt of the SSI award check.

iii. If Form SSA-(L)8125 is not received prior to Treasurer's receipt of the SSI award check, the local SSA/DO shall be contacted by the agency, within a period of not more than three working days, to obtain the necessary information to permit distribution of the proceeds due the client from the SSI award check.

(1) Problems encountered in obtaining the necessary information from SSA/DO shall be referred to the DFD/BBS.

(2) Disbursements of SSI funds to which a client is entitled, however, shall not be delayed due to non-receipt of Form SSA-(L)8125.

2. Form WFNJ/GA-31, Repayment of Interim Assistance Authorization, delineates distribution of retroactive and initial SSI or initial SSI posteligibility payments and shall be completed and transmitted in accordance with the following provisions:

i. Within 10 working days of the Treasurer's receipt of the SSI award check from SSA, the agency shall deduct any and all Interim Assistance payments provided in addition to Interim Assistance granted by any other agency who has remitted to the agency by certified mail a copy of a signed WFNJ/GA-30 form for that client.

(1) Interim Assistance shall only be deducted in accordance with the calendar date on which the client became eligible for SSI, as indicated on Form SSA-(L)8125. Proration may be necessary if

WFNJ/GA was provided for any days during the month prior to the effective date of SSI eligibility.

ii. Form WFNJ/GA-31 delineating the computation of the client's net benefit and a check equal to the net SSI benefit due the client, if any, shall be forwarded to the client pursuant to the time frame in (e)2i above.

iii. The client has a right to appeal the computation results in accordance with the provisions of N.J.A.C. 10:90-9.3.

3. A copy of the completed Form WFNJ/GA-31, together with a copy of the SSA-(L)8125, as received from SSA, shall be forwarded to the DFD/BBS immediately following the issuance of Form WFNJ/GA-31 and the net benefit check to the client.

4. In accordance with instructions on Form WFNJ/GA-31 Supplement (Form WFNJ/GA-31 reverse side), a copy of the SSI check shall be attached to Form WFNJ/GA-31 and the WFNJ/GA-31 Supplement completed.

5. The deposit of State share of Interim Assistance recovered shall be deposited into the PATF II Account.

(f) Provisions concerning the installment payments of large retroactive SSI benefits are as follow:

1. Payments will be made directly to the client from SSA in six month intervals, in those instances in which the retroactive SSI benefit exceeds 12 times the monthly SSI entitlement. Any remaining retroactive benefits will be paid in a second installment (not to exceed the first payment amount). All remaining benefits will be paid in a third installment.

i. The county/municipality will be provided with an automated billing form, SSA-L8125-F6 (9/96) "IAR Payment Pending Case-State Due Payment." This billing form will contain a monthly breakdown of the client's payments for the retroactive period and will identify the case as an IAR-Payment Pending Case. The county/municipality shall complete the section entitled, "Amount of reimbursement claimed by the State" using the information provided by SSA in the section entitled, "Retroactive Amount Due Summary." The county/municipality shall be responsible for returning the completed billing form to the SSA field office (FO) servicing the SSI recipient within 10 working days from the date of receipt. The address of the servicing FO will be included on the cover page of the Form SSA-L8125-F6. After the SSA FO receives the completed billing form from the county/municipality, a check shall be issued to the county/municipality in the amount of the reimbursement claimed. The SSA will distribute the remaining SSI installment payments to the recipient.

(g) The Certificate of Authority identifies county/municipal personnel who are authorized to sign documents in conjunction with reporting the receipt and distribution of Interim Assistance Reimbursement received from SSA. The Certificate shall be completed and processed as follows:

1. Names, signatures and titles of the county/municipal agency director and his or her designee(s) (if appropriate) are to be identified on the Certificate;

2. Although the Certificate is to be addressed to the SSA, it is to be mailed to the DFD; and

3. Each new county/municipal director (temporary or full-time) shall complete and submit a Certificate of Authority.

10:90-14.6 Establishment of Petty Cash Fund Account for Municipal Agency

(a) The municipal agency may request that the municipal governing body establish a General Assistance Petty Cash Fund for use by the municipal agency.

1. Moneys in the Petty Cash Fund Account shall be withdrawn by check for direct disbursement to SSI recipients (see N.J.A.C. 10:90-14.5(e)) and/or for direct payment of WFNJ/GA.

2. To establish a petty cash fund, the municipality shall contact the Director of Local Government Services, PO Box 800, Trenton, New Jersey 08625-0800.

i. Conditions under which the Director of Local Government Services may grant approval are as follows:

(1) All claims being paid by check shall be signed by the municipal agency director, who is the designated custodian of the fund;

(2) No deposits may be made to this account other than funds transferred from the PATF Accounts;

(3) A schedule listing all disbursements for a given period or, in the alternative, a schedule(s) together with actual vouchers must be submitted to the governing body for approval, after which a check(s) will be drawn to reimburse the fund(s);

(4) The fund shall be closed out to a zero balance on December 31 of each year (June 30 if fiscal year end) and reestablished after January 1 (July 1 if fiscal year) of the following year.

3. The agency director shall be the designated custodian of the WFNJ/GA petty cash fund. He or she shall be responsible for depositing into the petty cash fund checks drawn on the public assistance trust fund account, payable to: "(Name), Director of Welfare," in order to replenish balance to the authorized amount.

4. In those municipalities where a general assistance petty cash fund account is already in existence, additional funds may be deposited in order to meet an anticipated increase in expenditures from this account. In order to increase the amount in the account, a new application must be completed and submitted to the Director, Division of Local Government Services in the Department of Community Affairs.

10:90-14.7 Retention and destruction of case records

(a) The agency director shall have the responsibility of determining which case records may be destroyed. In selecting these cases, he or she shall follow the procedures set forth in this section and shall not destroy or otherwise dispose of any case record before the expiration of the retention requirement as specified in (c) below.

1. The agency shall institute a system, compatible with its internal administrative procedures, which will assure the identification of closed applications and cases, date of closing and status of reimbursement, if applicable.
2. The file of closed cases shall be reviewed annually until the record retention period has expired.
 - i. Cases which have been closed for a period exceeding that indicated in (c) below shall be removed and destroyed after authorization has been received from the Division of Archives and Records Management (DARM) (see (b) below).

(b) Rules concerning request and authorization for records disposal are:

1. Requests for destruction of case records shall be submitted on Form CR-AA-0005, Request and Authorization for Records Disposal (formerly Form ED-6) to DARM.
 - i. Supplies of the Request and Authorization for Records Disposal form may be obtained from DARM. All copies of the completed form shall be forwarded to the DARM for approval;
 - ii. A follow-up copy will be returned to the county/municipal office by the DARM with recommendation for suitable action.
2. The agency shall not destroy any records until written approval has been received. After records are destroyed, the agency will maintain a listing of names, as well as case numbers destroyed. This list shall be made available for inspection by representatives of DARM upon request.

(c) Cases shall be selected for destruction in accordance with the following schedule:

<u>Record</u>	<u>Retention period</u>
Inactive case records	6 years
Denied cases	10 years
Copies of relief orders or vouchers	6 years

<u>Record</u>	<u>Retention period</u>
Computer printout of WFNJ/GA medical service/product payments made by DMAHS fiscal agent	6 years
General correspondence not relating to policy or active cases	3 years
Form GA-6, Report of Assistance Commitments	6 years
Form WFNJ/GA-6 Report of Assistance Commitments	6 years
Form 100, Original Invoice for Expenses	6 years
Form GA-12, Statement of Refunds	6 years
Form WFNJ/GA-12, Statement of Refunds	6 years
Form GA-30, Authorization for Reimbursement of Initial Supplemental Security Income or Initial SSI Post Eligibility	6 years
Form WFNJ/GA-30, Authorization for Reimbursement of Initial Supplemental Security Income or Initial SSI Post Eligibility	6 years
Form GA-31, Repayment of Interim Assistance Authorization	6 years
Form WFNJ/GA-31, Repayment of Interim Assistance Authorization	6 years
Form GA-48, General Assistance Data Input	3 years
Form WFNJ/GA-48, General Assistance Data Input	3 years

The current year shall not be counted when determining the retention period.

10:90-14.8 Processed medical service claims

(a) The provisions of this section apply to all counties/municipalities concerning medical service claims processed for payment by the Division of Medical Assistance and Health Services'(DMAHS') fiscal agent, as described in N.J.A.C. 10:90-13.1.

(b) Each month the fiscal agent shall provide to DFD/BBS, through DMAHS, a computer printout of all WFNJ/GA medical claims paid through the fiscal agent. The BBS shall forward the printouts to the respective agencies on a monthly, quarterly or semi-annual basis (print-out disbursement time frames will be determined by the monthly volume of activity).

1. Upon receipt of the computer printout, the agency shall be responsible for determining if all claims charged to the county/ municipality are for eligible WFNJ/GA recipients. Payments for medical service claims for eligible WFNJ/GA recipients may be recorded in individual case records if desired. The agency shall identify the errors, notify the provider/vendor of the errors and void the claim. If the agency does not have a Provider Numeric Listing, the agency shall obtain the address and/or telephone number of the vendor by identifying the provider number for the questioned claim and calling DFD/BBS, WFNJ/GA Fiscal Unit. After notifying the provider/vendor, the agency shall complete a Form FD-999, MMIS Claim Adjustment Request Form, for each erroneous claim identified. The completed FD-999

form(s) shall be mailed to the fiscal agent and a copy of each shall be retained on file by the agency. The claim adjustment will appear on the computer printout for the month that it is processed and the administrative charge for that claim shall also be adjusted for the period in which the claim adjustment/void is processed.

2. Computer printouts shall be retained by the agency for the same periods applicable to Form WFNJ/GA-6 (see N.J.A.C. 10:90-14.7(c) for Record Retention Schedule).

(c) The computer printout shall serve as a supplementary Form WFNJ/GA-6. It will therefore be unnecessary to transfer the printout listings to a regular Form WFNJ/GA-6.

(d) Administrative costs for the processing and payment of WFNJ/GA medical service claims through the fiscal agent shall be billed to the respective municipalities by DFD/BBS, as follows:

1. If the administrative cost exceeds \$25.00 in a quarter, the billing shall be conducted on a quarterly basis;
2. If the administrative cost is less than \$25.00 in a quarter, the billing shall be conducted on an annual basis;
3. If the administrative cost is more than \$25.00 in the current quarter and there is an outstanding amount from any preceding quarter where the administrative cost was less than \$25.00, the total outstanding amount in aggregate (current quarter amount and total amount from any preceding quarters) shall be billed to the agency for that quarter;
4. Administrative costs charged for identified erroneous claims shall be adjusted in accordance with time frames stipulated at (b)1 above.

(e) A check shall be drawn from the municipal "Current Fund" account used for administrative expenses and made payable to the Treasurer, State of New Jersey for the total amount billed the municipality for the processing and payment of the medical service claims for that respective billing period. The check, drawn against the "Current Fund" account, shall be forwarded to the Division of Family Development, Bureau of Business Services, WFNJ/GA Fiscal Unit, PO Box 716, Trenton, New Jersey, 08625-0716.

1. Checks shall not be drawn against the PATF accounts for payment of administrative expenses billed to the municipality for the processing and payment of WFNJ/GA medical service claims. Any check received, which is drawn against the PATF account, shall not be accepted as payment by the DFD/BBS and shall be duly returned. The bill shall be considered "unpaid" until a subsequent check is received which conforms with the provision at (d) above.

10:90-14.9 Computerized match reports

(a) Agencies shall complete investigation of the following computerized match reports and submit their findings, along with an indication as to the appropriate action undertaken, to DFD within 60 days of receipt:

1. WFNJ/GA-Wage Match Report: A match of the WFNJ/GA files with the Department of Labor's wage files. The WFNJ/GA-Wage Match Reports are sent to all municipalities or counties, as appropriate, on a quarterly basis;

2. WFNJ/GA-SSI Match Report: A match of the WFNJ/GA files with the (SDX) State Data Exchange which lists all SSI recipients.

i. The WFNJ/GA-SSI Match Report is sent to computerized agencies on a monthly basis and to non-computerized agencies on a quarterly basis;

3. WFNJ/GA-WFNJ/GA Match Report: A match of all municipalities matched against each other.

i. The WFNJ/GA-WFNJ/GA Match Report is sent to computerized agencies on a monthly basis and to non-computerized agencies on a yearly basis;

4. WFNJ/GA-FAMIS Match Report: A match of all WFNJ/GA cases matched against the FAMIS (county agency) files.

i. The WFNJ/GA-FAMIS Match Report is sent to computerized agencies on a monthly basis; and to non-computerized agencies on a yearly basis;

5. WFNJ/GA-UIB Match Report: A match of the WFNJ/GA cases with the Department of Labor's Unemployment Insurance Benefits files. The WFNJ/GA-UIB Match Reports are sent only to the computerized agencies on a monthly basis.

6. WFNJ/GA-NY State Wage Files Match Report: A quarterly match of the WFNJ/GA cases with NY State Wage Files;

7. WFNJ/GA-Veterans Benefits Match Report: An annual match of WFNJ/GA cases with Veterans' benefits.

SUBCHAPTER 15. DEFINITIONS

10:90-15.1 Definitions

The following words and terms used within this manual shall have the following meaning unless the context clearly indicates otherwise.

"Adequate notice" means notice provided to an applicant for or recipient of WFNJ, of any action to be taken by the entity administering the WFNJ program, that affects the applicant's or recipient's benefits.

“Adjusted allowance” means the balance remaining as a result of subtracting the assistance unit’s total income from the appropriate public assistance allowance amount for that assistance unit.

“Adjusted gross income” means, when self-employed, the net income as determined by subtracting the cost of producing the income from total gross earnings.

“Adverse action” means any action by the county or municipal agency resulting in denial of an application for assistance, suspension, reduction or termination of assistance. The term is also applicable to decisions pertaining to protective and restricted payments and denial of request for special payments.

“Allowance” means the amount of money recognized for a specific purpose.

“Alternative Work Experience Program (AWEP)” means work and training only with a public, private nonprofit or private charitable employer that provides a recipient with the experience necessary to adjust to, and learn how to function in, an employment setting and the opportunity to combine that experience with education and job training.

“Appeal” means the process of exercising the right to challenge a decision or action of the administering entity and to have such decision or action reviewed by an impartial agency.

“Applicant” means a person who makes a written request for benefits provided by the WFNJ Program. An applicant can be an individual, couple without dependent children, natural or adoptive parent(s), parent-person(s), parent-minor, or legal guardian acting on behalf of the assistance unit.

“Application” means a written request for public assistance made by an applicant or legal guardian acting on behalf of the assistance unit.

“Application process” means the required actions necessary to make an official determination of the disposition of the application for benefits.

“Approved application” means the application process indicates the applicant has met the minimum eligibility requirements and is determined eligible to receive benefits under the WFNJ program.

“Arrears” means the amount of support determined through a court order or administrative order from this state or another state for support and maintenance of a child(ren) or of a child(ren) and the custodial parent, which has not been paid.

“Assistance payment” means the money amount authorized and issued to the assistance unit.

“Assistance unit” means a single adult without dependent children; a couple without dependent children; dependent children only; or a person or couple who are legally or blood related to or the legal guardian of one or more dependent children who live together as a household unit.

“Authorized representative” means an individual (or organization) whom a client designates, orally or in writing, to act on his or her behalf; or in cases of incompetence the person designated by the court to act for the client.

“BARA” means the Bureau of Administrative Review and Appeals in the Division of Family Development.

“BBS” means the Bureau of Business Services in the Division of Family Development.

“Benefits” means any financial or service assistance available to the assistance unit through WFNJ.

“Calculated earned income” means amount of earned income remaining after applicable disregards and deductions have been subtracted from total gross earnings. This is the countable amount to be used in determining the assistance unit’s total income.

“Case management” means the provision of certain services to WFNJ recipients.

“Case record” means the official file, including electronically stored data, that constitutes a complete record which supports the decisions and actions of the WFNJ entity on a case and may include, but is not limited to, forms, chronological narrative, correspondence, record of work requirement compliance and other documents pertinent to the application and eligibility of the client.

“Certificate of Parentage (COP)” means the official form for paternity acknowledgment in New Jersey.

“Child care center” means any home or facility licensed by the Division of Youth and Family Services, which is maintained for the care, development or supervision of six or more children under 13 years of age who attend for less than 24 hours a day.

“Child only case” means an assistance unit comprising a child(ren) only who is (are) receiving WFNJ/TANF benefits and is(are) residing with a non-needy parent/caretaker who has been designated as the payee for the child(ren)’s cash assistance grant.

“Child support” means the amount required to be paid under a judgment, decree, or order, whether temporary, final or subject to modification, issued by a court or an administrative agency of competent jurisdiction, for the support and maintenance of a child, including a child who has attained the age of majority under the law of the issuing state, or child and the parent with whom the child is living, which provides monetary support, health insurance, arrear-

ages or reimbursement, and which may include other related costs and fees, interest and penalties, income withholding, attorney's fees and other relief.

"Client" means an all inclusive term for an applicant or recipient of assistance.

"Collateral investigation" means contact with a source other than members of the applicant's or recipient's immediate household which is made with the knowledge and consent of the applicant(s) for the purpose of obtaining or verifying information.

"Commissioner" means the Commissioner of the New Jersey Department of Human Services.

"Community Work Experience Program (CWEP)" means work and training only with a public, private nonprofit or private charitable employer, provided to a recipient when, and to the extent, that such experience is necessary to enable the recipient to adjust to, and learn how to function in, an employment setting.

"County agency" means the county agency that was administering the Aid to Families with Dependent Children program at the time the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996" P.L. 104-193, was enacted and which shall also administer the WFNJ Program in that county.

"County residence" means that county where an applicant or recipient is residing.

"Couple" means two individuals who the community views as a couple regardless of their sexual orientation.

"CSP" means the Child Support and Paternity Program.

"Custodial parent" means the primary resident parent prior to the establishment of the order determining custody.

"Date of eligibility" means for an eligible applicant, the date of the application or as soon thereafter as there is evidence of financial need; or when verification of eligibility has been satisfactorily completed.

"Denied application" means a determination that, for a specific reason, the applicant is determined ineligible for assistance.

"Department" means the New Jersey Department of Human Services.

"Designated payee" means a person signing the application to whom the assistance benefits will be issued.

"Dismissed application" means recognition that eligibility need not be considered further because the applicant moved to another state during the application process or cannot be located, or the application was registered in error.

"Disregards" means the amount of earned income which is not considered in the WFNJ program when determining the amount of the assistance benefit.

"DDD" means the Division of Developmental Disabilities.

"Division of Employment Services (DES)" means the office within the State Department of Labor and Industry responsible for administration of Unemployment Insurance and Temporary Disability Benefits programs and for operation of the State Employment Service.

"Division of Family Development (DFD)" means the office within the State Department of Human Services responsible for supervision of the administration of county and municipal agencies.

"DVRS" means the Division of Vocational and Rehabilitation Services.

"DYFS" means the Division of Youth and Family Services in the Department of Human Services.

"Electronic Benefit Transfer (EBT)" means the utilization of a Families First debit card by which a recipient may draw benefits through an approved financial institution or vendor.

"Eligible medical institution" means a facility or specified section thereof certified as an approved institution for the purpose of treating acute illness (private or general hospitals) or providing care for the chronically ill (long term care facilities).

"Emergency assistance" means a program of assistance and related services to WFNJ recipients for brief periods of time, necessitated by unusual circumstances which were neither foreseen nor controllable by the recipient.

"Exempt resource" means a resource which is not to be taken into consideration when computing extent of need and is not subject to liquidation requirements.

"Families First" means the program which utilizes Electronic Benefit Transfer as an alternate method of distributing benefits, such as but not limited to cash assistance and food stamps, to eligible individuals and families.

"Filiation proceedings" means court action to establish paternity and responsibility for support of a child born out-of-wedlock.

"Financial income eligibility" means it is determined that the applicant's total monthly income is less than the applicable maximum income level established for needy individuals and families in the WFNJ program.

"Food Stamp Program" means a program to increase the food purchasing power of low income households.

“Full-time employment” means employment unsubsidized by any level of government in which a person is engaged for at least 35 hours a week.

“Full-time post-secondary student” means a student enrolled for a minimum of 12 credit hours in a post-secondary school.

“Gross earned income” means the total earnings of members of the assistance unit before applicable disregards and deductions are subtracted, or the net profit from self-employment before income tax or personal taxes are deducted.

“Head of household” means the individual who is recognized by other members of the household as having primary responsibility for financial control and direction of the household.

“Homelessness, state of” means when the physical health and safety of an assistance unit, through no fault of its members, is imperiled by substantial loss of shelter.

“IM” means income maintenance.

“Incapacity” means physical or mental defect, illness or impairment, supported by competent medical testimony, of such a debilitating nature as to reduce substantially or eliminate an individual’s ability to support or care for himself or herself and/or the otherwise eligible child in his or her care, which is expected to last for at least 30 days.

“Income” means, but is not limited to, commissions, salaries, self-employed earnings, child support and alimony payments, interest and dividend earnings, wages, rent receipts, unemployment compensation, any legal or equitable interest or entitlement owed that was acquired by a cause of action, suit, claim or counterclaim, insurance benefits, temporary disability claims, estate income, trusts, Federal income tax refunds, State income tax refunds, homestead rebates, lottery prizes, casino and racetrack winnings, inheritances, annuities, retirement benefits, veteran’s benefits, union benefits, or other source that may be defined as income by the commissioner.

“Income eligibility standard” means the income eligibility threshold based on assistance unit size for benefits provided within the limit of funds appropriated by the Legislature.

“Income exclusions” means income that is not to be taken into consideration when determining WFNJ financial eligibility.

“Income-in-kind” means income received in the form of goods or services rather than cash.

“Inquiry” means any request for information about assistance programs which is not a request for an application.

“Institution” means a public or private facility providing 24 hour residential placement, care or incarceration.

“Legal guardian” means a person who exercises continuing control over the person or property, or both, of a child, including any specific right of control over an aspect of the child’s upbringing, pursuant to a court order.

“Location” means verified information about the alleged father’s and/or non-custodial parent’s physical whereabouts, employer(s), and/or other sources of income or assets, as appropriate, which are sufficient and necessary to take the next appropriate action on a case.

“MDO” means Medicaid District Office in the Division of Medical Assistance and Health Services.

“Medicaid” means the New Jersey Medical Assistance and Health Services Program in the Department of Human Services.

“Medicaid Only” means provision of medical assistance only to a family or certain individuals who are eligible for WFNJ benefits and choose to waive the money payment benefit portion.

“Medicaid Special” means Medicaid coverage available to any dependent child under 21 or an independent child under age 21 based on financial eligibility only regardless of other program requirements (for example, WFNJ, employment, training, CSP or school attendance).

“Medical Assistance (MA)” means payments on behalf of recipients to providers for medical care and services.

“Money payment” means an assistance check paid to, or funds deposited through EBT for a recipient or his or her authorized payee.

“Monthly amount” means the amount of money required, provided or received for one month.

“Monthly grant” means the amount of money payment to be made each month to an assistance unit.

“Municipal agency” means an agency within a municipality that has been designated, via municipal resolution, to administer the WFNJ/GA Program.

“Municipality” means any city, borough, township, town, village or municipality governed by a board or commissioners or an improvement commission.

“Needy person” means a person who requires and qualifies for a money payment in the WFNJ program.

“New application” means a signed request for assistance by an individual who has never previously applied under that program in any county or municipality in the State.

"NJSES" means the New Jersey State Employment Service, New Jersey Department of Labor.

"Non-custodial parent" means the non-primary resident parent prior to the establishment of an order determining custody.

"Noneligible person" means a person who is neither sanctioned nor required by law or regulation to be included in the WFNJ assistance unit.

"Non-needy caretaker" means a relative caring for a dependent child, or a legal guardian of a minor child who, in the absence of a natural or adoptive parent, assumes parental responsibility for such minor child.

"Obligee" means the individual or entity entitled to receive child support and health insurance or provide health insurance under a court order for support and shall include agencies of this and another jurisdiction to which an obligee has assigned the obligee's right to support.

"Obligor" means the individual who according to applicable law(s) has the obligation to pay child support and/or provide health insurance coverage.

"On-the-job-training (OJT)" means an activity in which a participant is hired by a public or private sector employer for which the employer is reimbursed a portion of the individual's wages while he or she is learning on the job.

"Out-of-wedlock child" means a child born to a mother who is not married to the father of such child.

"Ownership of real or personal property" means, for WFNJ program purposes, any and all rights, title or interest, legal or equitable, to such property.

"Parent" means natural and/or adoptive parent(s) or parent-person(s).

"Parent-minor" means a parent of a child or children who is himself or herself under the age of 18.

"Parent-person" means certain relatives of a child who, in the absence of a natural or adoptive parent, assume parental responsibility.

"Payee" means the person designated to receive assistance payments on behalf of the eligible members of an assistance unit.

"Pending application" means a general term for application, reapplication, reopened application, or transferred application prior to official disposition.

"Per capita" means an amount equal to one individual's share of the total (allowance, cost, income, and so forth).

"Personal interview" means face-to-face discussion between individuals.

"Potential resource" means a resource which, through liquidation, will provide cash for the use of the assistance unit or for reimbursement to the agency.

"Poverty level" means the official poverty level based on family size, established and adjusted under Section 673(2) of Subtitle B of the "Community Services Block Grant Act," Pub. L. 97-35 (42 U.S.C. § 9902(2)).

"Program" means the Work First New Jersey (WFNJ) program.

"Protective payee" means a person authorized by the WFNJ entity under certain conditions to receive and administer assistance payments on behalf of an eligible family.

"Protective payment" means assistance payment made to an individual other than the parent or parent-person, as designated by the WFNJ entity under certain conditions.

"Provider" means any person, public or private institution, agency or business concern, approved by the Division, who lawfully provides medical care, services, goods and/or supplies, and holding, where applicable, a current valid license to provide such services or to dispense such goods and/or supplies.

"Public assistance" means assistance rendered to needy single adults, couples without dependent children and families with dependent children and includes all benefits provided under the WFNJ program.

"Reapplication" means a signed request for assistance by an individual who has previously applied for, but never received, assistance under that program in any county or municipality in the State.

"Recipient" means a recipient of benefits under the WFNJ program.

"Recovery" means the repayment of assistance improperly obtained.

"Redetermination of eligibility" means a review and investigation of all facts and circumstances relating to the recipient's application to determine continuing eligibility for receipt of WFNJ assistance benefits.

"Referral" means a request for assistance and/or services from a public or private agency or individual on behalf of another individual.

"Refugee Resettlement Program (RRP)" means a Federally funded program designed to help meet the needs of refugees as defined by the Immigration and Naturalization Service.

"Registration" means the action of the WFNJ administrative entity in making an official record of and assigning a control number to an application.

“Reopened application” means a signed request for assistance by an individual who has previously received assistance under that program in any county or municipality in the State.

“Representative payee” means a person appointed by the court under certain conditions to receive and administer payments on behalf of an eligible family or individual.

“Resident of New Jersey” means a person who is living in the State for other than a temporary purpose and who has no intention of moving from the State.

“Resources” means all real and personal property.

“Resource limit” means the maximum amount of resources/assets, that will not be taken into consideration when determining eligibility for the WFNJ program.

“Responsible adult” means a person who agrees to be designated to receive assistance payments on behalf of a parent minor and his or her child(ren) and who is 21 years of age or older, of reputable character who can provide a safe, nurturing home life and/or will advocate on behalf of the parent-minor as well as provide stability, guidance and support to a parent-minor and his or her child(ren).

“Restricted payments” means checks drawn to the order of a specified person and subject to some condition or restriction which prevents immediate and unconditional negotiation and use by the payee upon delivery; checks drawn to the order of a third person or a vendor and intended for use on behalf of the client.

“Retirement, Survivors and Disability Insurance (RSDI)” means the Federal program administered by the Social Security Administration (SSA) which provides protection to workers and their families against loss or stoppage of earnings resulting from retirement at age 62 or older, death or disability.

“Return to state of origin” means that a family, who has resided in New Jersey for a relatively short period desires to return to the state from which it came.

“RSDI” means Retirement, Survivors and Disability Insurance.

“Sanction” means loss of receipt of assistance benefits for a designated period of time because of noncompliance with program requirement(s).

“Services” means any WFNJ benefits that are not provided in the form of cash assistance.

“Social Security payment” means RSDI benefit.

“Spouse” means a husband or wife of a specified individual.

“Spousal-support obligation” means a support obligation for a spouse or former spouse of the obligor.

“SSA” means Social Security Administration.

“SSI” means Federal Supplemental Security Income Program.

“State IV-D Agency or its subcontracted entity” means the Department of Human Services (DHS) or any public or private entity with whom DHS has contracted for Title IV-D services.

“State institution” means any institutional facility for the mentally ill or developmentally disabled, penal institution or veteran’s hospital under the jurisdiction of the State of New Jersey.

“State office” means the Division of Family Development.

“Suspended grant” means a payment which is withheld from the recipient pending clarification of continuing eligibility and/or extent of need or because of temporary increase of available resources.

“TANF” means the temporary Federal welfare reform program called Temporary Assistance for Needy Families.

“Temporary payee” means a person designated temporarily by the WFNJ entity to receive assistance payments on behalf of an eligible individual or family, usually in an emergency situation.

“Time-limited assistance” means an aggregate total of 60 cumulative months of receipt of WFNJ benefits whether or not those months are accrued consecutively or intermittently during periods of program participation.

“Timely notice” means a notice that is mailed to a WFNJ applicant/recipient by a county or municipal agency at least 10 calendar days before the effective date of an agency’s decision or action concerning WFNJ benefits.

“Title IV-D” means Part D, “Child Support and Establishment of Paternity,” of subchapter IV of the Social Security Act (42 U.S.C. § 651 et seq.) under which states receive partial Federal reimbursement of their administrative expenses for establishing paternity and collecting child support.

“Total countable income” means the sum of all recognized income of the assistance unit, including unearned and calculated earned income.

“Transfer application” means a signed request for assistance from a recipient who is presently receiving assistance under the same program in another county or municipality in the State.

“Unrestricted payments” means checks drawn to the order of and delivered to the recipient or authorized payee and received by such person without direction of any kind as a condition of receiving the payment.

“Vendor payment” means a payment drawn to the order of a person or facility for providing goods or services to or for the client, representing payment for such goods or services.

“Vocational training” means providing recipients with classroom training experience and instruction related to specific occupational areas in demand in their labor market area. Training may be combined with CWEP.

“Voluntary acknowledgment of paternity” means consent to the parentage of a child(ren) by signing a Certificate of Parentage. This includes a request by the alleged father and/or the non-custodial parent for genetic testing.

“WFNJ/TANF” means the Work First New Jersey/Temporary Assistance for Needy Families Program.

“WFNJ/GA” means the Work First New Jersey/General Assistance Program.

“Withdrawn application” means an oral or written request by an applicant that the WFNJ entity terminate its activity on his or her application.

“Work activity” means, but is not limited to, the following: employment, on-the-job-training, job search and job readiness assistance; vocational educational training; job skills training related directly to employment; community work experience; alternative work experience; supportive work; community service programs, including the provision of child care as a community service project; in the case of a teenage parent or a recipient under the age of 19 who is expected to graduate or complete their course of study by their 19th birthday, satisfactory attendance at a secondary school or in a course of study leading to a certificate of general equivalence; and education that is necessary for employment in the case of a person who has not received a high school diploma or a certificate of high school equivalency, a course of study leading to a certificate of general equivalency, or post-secondary education, when combined with community work experience participation or other approved work activities, including employment.

“Work First New Jersey participants” means all individuals in the assistance unit.

“Work First New Jersey program” means the single public assistance program established pursuant to P.L. 1997 c.13, c.14, c.37 and c.38, which provides assistance to single adults, couples without dependent children and families with dependent children.

SUBCHAPTER 16. CHILD SUPPORT AND PATERNITY

10:90-16.1 Introduction

P.L. 93-647 establishes Title IV-D of the Social Security Act, which mandates procedures for enforcing support obligations owed by absent parents to their children, locating absent parents and establishing paternity for children born out-of-wedlock.

10:90-16.2 Eligibility requirements

(a) In addition to the eligibility requirements contained in N.J.A.C. 10:90-2.2 and 3.2 or 3.4, requirements for WFNJ eligibility shall include the following:

1. Cooperation with child support as outlined under N.J.A.C. 10:90-16.6 below. The applicant/recipient shall be advised of his/her rights to a fair hearing and to appeal any adverse action in accordance with N.J.A.C. 10:90-9.3.
2. Assignment of support rights: WFNJ/TANF applicants, as a condition of eligibility, automatically assign to the county agency all rights to support from the children's absent parent(s) or any other person to which the eligible children, or the applicant when he or she is included in the eligible unit, may be entitled (see N.J.A.C. 10:90-16.6). An assignment of rights is also required for DYFS cases under Section 471(a)17 of the Social Security Act and as a condition of Medicaid under 42 C.F.R. 433.146.

(b) Child support and paternity regulations contained in this subchapter are not required for the Refugee Resettlement Program (RRP). Although county agencies will not receive incentive payments for amounts collected for individuals in this program, there is no bar to utilizing the methods herein to ensure collection of child support.

(c) Title IV-D support collections and paternity determinations shall be made available to any individual not receiving WFNJ who files an application with a county agency.

(d) Title IV-D support collections and paternity determination shall be made available to the Division of Youth and Family Services (DYFS) upon application and referral.

10:90-16.3 Cooperation in establishing paternity and support

(a) The cooperation requirement herein is applicable pursuant to the Work First New Jersey Act, P.L. 1997 c.14.

(b) Applicants/recipients of WFNJ are required to cooperate with the child support agency to establish parentage and establish, modify and enforce child support orders. Cooperation for WFNJ TANF/GA applicants/recipients shall include, but is not limited to, providing the child support agency with information about the identity of the noncustodial parent as specified at N.J.A.C. 10:90-16.4(b). The child support agency shall conduct an investigation based upon the information provided in an effort to identify and locate noncustodial parents, and establish parentage and/or establish, modify and enforce child support orders. If an applicant/recipient of WFNJ/TANF fails to cooperate by not providing the necessary information as outlined at N.J.A.C. 10:90-16.4(b) and fails to make a good faith effort as outlined at N.J.A.C. 10:90-16.4(c), or fails to meet the criteria for continuing cooperation as outlined at N.J.A.C. 10:90-16.4(e), the child support agency shall send notice to the applicant/recipient that a determination of noncooperation shall be made unless he or she takes certain specified actions to cooperate.

(c) An applicant/recipient of Medicaid benefits shall be required to cooperate in obtaining support and medical insurance to which members of the eligible unit are entitled (see N.J.A.C. 10:90-16.6).

(d) Once a determination of noncooperation is made, the WFNJ/TANF applicant/recipient and the children in the assistance unit shall be ineligible for cash benefits under WFNJ and the applicant/recipient shall be ineligible for Medicaid. The applicant/recipient shall have the opportunity to challenge a determination of noncooperation by requesting a fair hearing.

(e) The WFNJ applicants/recipients shall be required for child support purposes to:

1. Appear at the offices of the appropriate child support agencies as necessary to provide oral or written information, or documentary evidence relevant to, obtaining support and medical insurance, which is known to, possessed by, or reasonably obtainable by the WFNJ/TANF applicant/recipient;
2. Appear as a witness at court or other hearings or proceedings necessary to obtain support;
3. Provide information, or attest to the lack of information, under penalty of perjury; and
4. After receipt of a grant, pay to the county agency CSP Unit any child support payments which are received directly from the absent parent, whether voluntary or court ordered, or through the probation division.

10:90-16.4 Good faith effort requirement

(a) To cooperate, a WFNJ/TANF applicant/recipient shall make a good faith effort as outlined in (b) and (c) below. The child support representative shall explain what constitutes a good cause claim. An applicant or recipient who has not provided the information specified in (b) below shall be deemed to be making a good faith effort if he or she has provided all the information he or she has or can reasonably obtain as required by (c) below.

1. The child support agency representative shall access both the Automated Child Support Enforcement System (ACSES) for an existing order and the Paternity Opportunity Program Imaging Data Base to determine if a Certificate of Parentage (COP) was executed on any of the children for which assistance is being sought.
2. The child support representative shall explain the WFNJ/TANF applicant's/recipient's responsibility to cooperate with child support in order for the family to be eligible for cash assistance under WFNJ and in order for the applicant/recipient to be eligible for Medicaid. The child support representative shall then request that the applicant/recipient sign the Affidavit of Cooperation.

(b) A WFNJ/TANF applicant/recipient shall provide sufficient verifiable information about the noncustodial parent

for each child for whom the applicant/recipient seeks assistance.

1. Information is considered sufficient if it meets the requirements of i or ii below:

i. Noncustodial parent's full name and three of the following:

- (1) Date of birth;
- (2) Social Security number;
- (3) Address (current or last known);
- (4) Employer (current or last known); or,
- (5) Manufacturer, model and license plate number of automobile.

ii. The noncustodial parent's full name and additional information that the child support agency determines to be reasonably equivalent to the information listed in subsection (b)1i above because it leads to the identity of the noncustodial parent.

2. Information is verifiable if that information leads to the identity of the noncustodial parent or to the identifiers listed in (b)1i above.

(c) A WFNJ/TANF applicant/recipient who has not provided sufficient information as specified in (b)1i above or reasonably equivalent as specified in (b)1ii above, shall be deemed cooperating in good faith if he or she provides the noncustodial parent's full name and all the following information that he or she has or can reasonably obtain:

1. A statement(s) as to the identity or location of the noncustodial parent from individuals other than the WFNJ/TANF applicant/recipient who have personal knowledge of such information.
2. Records, or information as to the whereabouts of records, from law enforcement, social service or other agencies, courts or offices regarding the identity or location of the noncustodial parent.
3. Utility bills, parking tickets, credit card receipts or other personal records or effects that contain information regarding the identity or location of the noncustodial parent.
4. Telephone numbers or addresses of individuals who, if contacted, may be able to provide information as to the identity or location of the noncustodial parent.

(d) If the WFNJ/TANF applicant/recipient does not have the information outlined in (b) above at the time of the initial interview or the redetermination but claims he or she can provide it within 30 calendar days, initial cooperation shall be granted and the applicant shall receive the Notice of Cooperation advising that he or she has 30 days from the date of the notice to provide the required information. If the applicant/recipient fails to make a good faith effort to provide the required information, the family shall be inelig-

ble for cash benefits under WFNJ and the applicant/recipient shall be ineligible for Medicaid.

1. If at the time of the initial interview or the redetermination, the WFNJ/TANF applicant/recipient claims not to have all the required information and states that he or she is unable to provide it within 30 calendar days, the applicant/recipient shall receive a Notice of Failure to Cooperate informing the applicant/recipient that the family is ineligible for cash benefits under WFNJ and the applicant/recipient shall be ineligible for Medicaid for failure to cooperate with child support.

(e) A WFNJ/TANF applicant/recipient who has provided all the information in (b) above or in good faith, the information in (c) above, is required to continue to make a good faith effort to cooperate with the child support agency to:

1. Establish paternity; and,
2. Establish, modify and enforce child support orders.

(f) Continuing cooperation as indicated in (e) above may include, but is not limited to the following:

1. Appearing for appointments to provide additional information possessed or reasonably obtainable;
2. Authorizing the child support agency to obtain pertinent information from third parties;
3. Appearing as a witness in a judicial or administrative hearing; or,
4. Appearing for scheduled genetic tests.

(g) If at the time of WFNJ/TANF application or redetermination or at the request of the child support agency, applicant/recipient is uncertain as to which of two or more individuals might be the noncustodial parent of a single child, the applicant/recipient shall be asked to provide the information required for all individuals who may be the noncustodial parent. However, in order to maintain a cooperation status, information for at least one possible noncustodial parent must be provided.

1. If the WFNJ/TANF applicant/recipient has more than one child, the applicant/recipient shall provide the information required for at least one possible noncustodial parent for each child at the time of application or redetermination of WFNJ eligibility or upon the request of the child support agency.

i. If a WFNJ recipient has a child while receiving assistance, the recipient is required to meet the cooperation requirement for the additional child in order for the family/individual to remain eligible for cash benefits under WFNJ and for the recipient to be eligible for Medicaid.

(1) The child support agency representative shall access both the Automated Child Support Enforcement System (ACES) and the Paternity Opportunity Program Imaging Data Base to determine if a Certificate of Parentage was executed for the child.

2. If the child support agency finds that the WFNJ/TANF applicant/recipient provided information regarding the noncustodial parent of a child that is not verifiable, or if the noncustodial parent named is found not to be the father by court order or genetic testing, the applicant/recipient shall be sent a Notice of Failure to Comply with Continuing Cooperation Requirements. The notice shall advise the applicant/recipient that if specific information is not provided within 10 days of the notice, cash assistance to the family under WFNJ, as well as Medicaid to the applicant/recipient shall be terminated.

i. If on two occasions the WFNJ/TANF recipient provides information that is found to be unverifiable, the recipient shall be sent a Notice of Termination, informing the recipient that within 10 calendar days of the notice, cash assistance to the family shall be terminated and the recipient shall be ineligible for Medicaid because the recipient has provided unverifiable information. The notice shall advise the recipient that verifiable information must be provided within 30 calendar days in order to reinstate these benefits and that neither cash to the family nor Medicaid to the recipient shall be reinstated until the information provided is verified.

ii. If the information provided is unverifiable, cash assistance to the family and Medicaid to the recipient shall not be reinstated.

3. If a WFNJ/TANF recipient fails to meet the requirements for continuing cooperation, as outlined in (e) above, the recipient shall receive a Notice of Failure to Comply with Continuing Cooperation Requirements. The notice shall advise the recipient that he or she must take a specific action within 10 calendar days of the notice or cash assistance to the family under WFNJ, as well as Medicaid to the recipient shall be terminated.

i. If the WFNJ/TANF recipient fails to meet continuing cooperation for failure to provide specific information, the recipient shall be required to provide the information as requested within 10 calendar days of the notice in order to maintain eligibility status.

(1) If the WFNJ/TANF recipient provides unverifiable information on two occasions, the recipient shall be sent a Notice of Termination, informing the recipient that within 10 calendar days of the Notice, cash assistance to the family shall be terminated and the recipient shall be ineligible for Medicaid because the recipient has provided unverifiable information. The notice shall advise the recipient that verifiable information must be provided within 30 calendar days in order to reinstate these benefits and that neither cash to the family nor Medicaid to the recipient shall be reinstated until the information provided is verified.

ii. If the WFNJ/TANF recipient fails to meet the continuing cooperation requirements for failure to appear for a scheduled appointment or hearing, the recipient shall be required to contact the child support agency within 10 calendar days of the notice in order to maintain cash eligibility to the family and Medicaid eligibility to the recipient. The WFNJ/TANF child(ren) will continue to be eligible for Medicaid.

(1) Upon contacting the child support agency, the WFNJ/TANF recipient shall be required to reschedule the appointment or hearing and provide documentation of the unavoidable circumstance which prevented him or her from appearing for the appointment or hearing. Unavoidable circumstances are as follows:

(A) Health related issues—documentation includes medical or hospital records;

(B) Employment related issues—documentation includes a letter from the recipient's employer; or,

(C) Other court related issues—documentation includes an accident report or verification that the recipient had to appear in court for another matter.

(2) If the recipient misses two consecutive scheduled appointments or hearings without documentation of an unavoidable circumstance, the recipient shall be deemed noncooperative. Cash assistance to the family as well as Medicaid to the recipient shall be terminated.

(h) If the WFNJ/TANF applicant/recipient fails to provide the information specified in (b) above and also fails to provide all the information he or she can reasonable obtain, as outlined in (c) above, or fails to meet the continued cooperation requirements in (e) above, the applicant/recipient shall have failed to make a good faith effort to cooperate and cash benefits to the family under WFNJ shall be terminated as well as Medicaid to the applicant/recipient.

1. Unless the WFNJ/TANF applicant/recipient fails to provide the information specified in (b) above and also fails to provide all the information he or she has or can reasonably obtain as outlined in (c) above or fails to meet the continued cooperation requirements in (e) above, the applicant/recipient is cooperating.

10:90-16.5 Good cause exceptions to cooperation

(a) A WFNJ/TANF applicant/recipient granted a good cause exception to cooperation due to one of the following circumstances, shall not be required to satisfy the child support cooperation provision:

1. Domestic violence—Paternity establishment and child support shall be pursued in cases involving domestic violence unless the applicant/recipient claims good cause because the victim fears physical harm will result to her or

her child. Domestic violence good cause claims are handled as outlined at N.J.A.C. 10:90-16.4(b) through (d).

2. Rape and incest—An applicant/recipient who claims a good cause exception to cooperation due to the circumstance in which the child was conceived as a result of rape or incest must provide corroborative evidence.

i. One of the following corroborating evidence must be provided to substantiate good cause:

(1) A health or law enforcement record that indicates the child was conceived as the result of incest or rape.

(2) Documentation from a community group or religious organization verifying that rape, or incest has occurred. Documentation can include verification that the applicant received counseling from the specific organization.

(3) Sworn statement from the applicant/recipient attesting that the child was conceived as a result of rape or incest.

3. Children for whom adoption proceedings have been initiated.

(b) A WFNJ/TANF applicant/recipient who claims to have good cause for refusal to cooperate has the burden of establishing the existence of a good cause circumstance.

1. To establish good cause, the applicant/recipient will be required to:

i. Specify the circumstances which he or she believes provide sufficient good cause for noncooperation;

ii. Corroborate the good cause circumstance; and

iii. If requested, provide sufficient information (such as name and address, if known, of putative father or absent parent) to permit an investigation.

2. Good cause circumstances: Only when at least one of the following circumstances exists will the county agency CSP Unit determine that the WFNJ/TANF applicant/recipient's cooperation is against the best interests of the child and there is good cause for refusal to cooperate:

i. The WFNJ/TANF applicant/recipient's cooperation is reasonably anticipated to result in physical or emotional harm to the child for whom support is to be sought;

ii. The WFNJ/TANF applicant/recipient's cooperation is reasonably anticipated to result in physical or emotional harm to the parent or parent-person of such nature or degree that it reduces such person's capacity to care adequately for the child; or

iii. Proceeding to establish paternity or collect support and medical insurance in the particular case would be detrimental to the child because:

(1) The child was conceived as a result of incest or forcible rape;

(2) Legal proceedings for the adoption of the child are pending before a court of competent jurisdiction; or

(3) The WFNJ/TANF applicant/recipient is currently (for a period of not more than three months) being assisted by a public or licensed private social agency to decide whether to keep the child or relinquish him or her for adoption.

3. Physical and emotional harm: Physical and emotional harm must be of a serious nature in order to justify a finding of good cause. A finding of good cause for emotional harm may only be based upon a demonstration of an emotional impairment which substantially affects the individual's functioning.

i. Anticipated emotional harm: When the good cause determination is based in whole or in part upon anticipated emotional harm to the child, parent or parent-person, the county agency will consider the following:

(1) The present emotional state and the emotional health history of the individual;

(2) The intensity and probable duration of the emotional impairment;

(3) The degree of cooperation to be required; and

(4) The extent to which the child will be involved in paternity establishment, court proceedings, and/or support collection and medical insurance activity.

(c) Proof of good cause claim: The WFNJ/TANF applicant/recipient who claims good cause must provide corroborative evidence within 20 days from the day the claim was made. In exceptional situations, the county agency may allow a reasonable additional period of time if it determines the client requires additional time because of the difficulty of obtaining the evidence.

1. Corroborative evidence: The county agency will make a good cause determination within 45 days of the date of the claim by the WFNJ/TANF applicant/recipient, based on the corroborative evidence supplied by the WFNJ/TANF applicant/recipient, but only after it has examined the evidence and finds that it actually verifies the good cause claim. The county agency will make an entry in the case record regarding the decision and will document the basis of its decision. The claim may be corroborated by the following types of evidence:

2. If, after examining the corroborative evidence, the county agency finds additional information is necessary in order to make a good cause determination, it will promptly notify the client, specifying the type of document which is needed.

i. Upon request by the WFNJ/TANF applicant/recipient, the county agency will make a reasonable effort to obtain specific documents the client is not reasonably able to obtain without assistance.

3. Corroborative evidence not submitted or inadequate:

i. Claim based on WFNJ/TANF applicant/recipient's anticipation of physical harm: The county agency will evaluate the good cause claim when the agency believes the claim is credible without corroborative evidence and such evidence is not available. A decision will be made based on the client's statement and the results of the investigation. This determination will be reviewed, approved or disapproved by supervisory personnel and the findings recorded in the case record.

ii. The county agency may further verify the good cause claim and, where necessary for a final determination, conduct an investigation. The investigation may include contact of the absent parent or putative father if such contact is determined to be necessary to establish the good cause claim. Prior to such contact, however, the client will be notified so that he or she may:

(1) Present additional corroborative evidence to make the contact unnecessary;

(2) Withdraw the application for assistance or have the case closed; or

(3) Have the good cause claim denied.

(d) Enforcement without parental cooperation: When the county agency CSP Unit makes a determination that good cause for refusal to cooperate exists, it will also determine whether or not child support enforcement and/or establishment of paternity and medical insurance can proceed without risk of harm to the child or parent with whom he or she lives if the enforcement or collection activities do not involve their participation. This decision, with the basis for the determination, will be recorded in the case record.

(e) If an WFNJ/TANF applicant/recipient is someone other than the parent of the child(ren), that individual shall be asked to provide the information outlined at N.J.A.C. 10:90-16.4(b) or (c) for both parents. However, if that individual claims that he or she cannot provide the required information, the applicant/recipient may be exempt from providing information as outlined below:

1. If the WFNJ/TANF applicant/recipient is a blood relative, the applicant/recipient must provide the information outlined at N.J.A.C. 10:90-16.4(b) or (c) for that parent of which he or she is a relative. The applicant/recipient shall be deemed cooperating upon providing a sworn statement, documenting with specificity, efforts undertaken and obstacles encountered by the applicant/recipient in pursuit of information regarding the non-relative parent. If available, the applicant/recipient shall provide documentation.

2. If the WFNJ/TANF applicant/recipient is not a blood relative, the applicant/recipient must provide the information outlined in N.J.A.C. 10:90-16.4(b) or (c) for at least one of the parents of the child(ren). The applicant/recipient shall be deemed cooperating upon providing a sworn statement, documenting with specificity, efforts undertaken and obstacles encountered by the applicant/recipient in pursuit of information regarding the parent for which information was not provided. If available, the applicant/recipient shall provide documentation.

(f) The WFNJ/TANF applicant/recipient exempt under the rules in this subchapter shall comply with the continued cooperation requirements as outlined at N.J.A.C. 10:90-16.4(e).

(g) Maintenance of CSP effort: The deletion of the WFNJ/TANF parent or parent-person from the eligible unit shall not be construed as a bar to continuing effort by the county agency CSP Unit to establish paternity or obtain support and medical insurance for the WFNJ/TANF children.

(h) Record keeping: The county agency shall maintain records of activities relative to good cause claims and shall make them available for Federal or State review upon request. Form PA-48, Summary of Good Cause Claims, shall be used for maintaining records of activities connected with good cause claims. Form PA-48A, Report on Claims of Good Cause for Refusing to Cooperate in Establishing Paternity and Securing Child Support, shall be prepared semi-annually. It shall cover the October-March and April-September report periods and must be sent to the Division by April 15 and October 15, respectively.

10:90-16.6 Assignment of support rights

(a) The county agency is required to provide IV-D services to families which have assigned their rights to support under WFNJ/TANF, DYFS (Section 471(a)17 of the Social Security Act) or as a condition of receipt of Medicaid, without an application or application fee.

(b) State law provides that application for or receipt of WFNJ/TANF shall automatically operate as an assignment to the county agency of any rights to support under Titles IV-A and IV-D of the SSA. Any support collections assigned to the county agency are subject to the provisions at N.J.A.C. 10:90-3.8(i) concerning the disregard payment. The first \$50.00 of support collected in a month and the first \$50.00 of any payment for a prior month paid by the absent parent in the month due shall be sent to the client.

(c) Purpose: Upon application for WFNJ/TANF benefits, each applicant assigns to the county agency all rights to support from the absent parent of the WFNJ/TANF children and any other legally responsible relative to which the eligible unit may be entitled and includes any support

obligation which has accrued at the time such application is executed.

(d) Applicability: The assignment of support rights applies to the WFNJ/TANF and DYFS programs. Medicaid applicants/recipients will assign only their rights to medical support.

(e) WFNJ worker's responsibility: The WFNJ worker shall advise the WFNJ/TANF applicant that upon signing an application (PA-1J) for WFNJ/TANF or Medicaid, he or she assigns to the county agency any rights to past due support and future support when applying for WFNJ/TANF and when applying for Medicaid, he or she assigns any rights to past due or future medical support and subsequent to its completion, he or she shall be responsible for informing the county agency of any payments which may be received either directly or through the probation division from an absent parent. Additionally, the applicant/recipient shall be informed of his or her cooperation responsibilities (see N.J.A.C. 10:90-2.2(a)1), and be provided with information describing available IV-D services and on the individual's rights and responsibilities under the child support enforcement program.

(f) Direct support payments: The WFNJ worker shall treat assigned support payments retained in the current month as income in determining need and amount of assistance payments.

(g) Overpayment resulting from direct support payments: When a full grant has been issued, any support payments received directly by the participant shall, upon receipt, be forwarded to the county agency CSP Unit. If the county agency CSP Unit discovers that directly received support payments are being, or have been retained by the WFNJ/TANF applicant/recipient, it shall immediately notify the WFNJ worker in writing.

1. The WFNJ/TANF applicant/recipient shall be required to remit the support payment to the county agency. If the applicant/recipient fails to comply, the amount of the direct support, less the \$50.00 disregarded child support payment, shall be counted as unearned income received in the budget month and used to determine the amount of the assistance payment to be issued for the corresponding payment month as set forth at N.J.A.C. 10:90-3.9(e).

2. If, due to lack of timely notification, the grant cannot be adjusted, the assistance payment issued for the payment month corresponding to the budget month in which the direct support was received shall be considered an overpayment. The county agency's WFNJ worker shall recover the overpayment, less the \$50.00 disregarded child support payment amount, upon termination of assistance or in subsequent payment months as set forth at N.J.A.C. 10:90-3.21.

(h) Continuing IV-D services for families that lose WFNJ/TANF, DYFS or Medicaid eligibility: Whenever a family is no longer eligible for assistance under the WFNJ/TANF, DYFS or Medicaid programs, the county agency must notify the family within five working days of the notification of ineligibility, that IV-D services will be continued unless the county agency is notified by the family that IV-D services are no longer desired. The county agency is required to pay all amounts collected representing support to the family. A county agency may not recover costs from either parent.

1. If IV-D services are terminated by the family, the county agency shall require that a IV-D application be filed for services if the family requests these services to be reinstated.

2. The application for NPA services will require a \$6.00 fee on all cases where an application is filed.

(i) It is the responsibility of the Division of Youth and Family Services to refer DYFS cases, which include IV-E and non-IV-E cases, to the county agency CSP Unit.

(j) Those cases in which there is an assignment under 42 C.F.R. 433.146 include but are not limited to Medicaid, Medically Needy and New Jersey Care. The Medicaid Agency will determine which Medicaid applicants/recipients need child support services and refer those cases to the appropriate county agency CSP Unit.

10:90-16.7 Incentive payment

(a) County agencies shall receive an appropriate share of any incentive payments made to the State, based on the efficiency and effectiveness of the county agency's activities in carrying out the requirements of the Title IV-D State Plan. A portion of the incentive payments shall be computed as a percentage of the State's WFNJ/TANF collections and a portion shall be computed as a percentage of NPA collections. The percentages shall be computed separately for each segment, based on the ratio of the State's WFNJ/TANF collections to the State's total IV-D administrative costs. The portion of the incentive payments in recognition of NPA collections shall be limited by the percentage of the portion of the incentive payments paid for a specific year in recognition of its WFNJ/TANF collections, and shall equal 105 percent in Fiscal Year 1988, 110 percent in Fiscal Year 1989, and 115 percent in Fiscal Year 1990.

1. WFNJ/TANF collections means support collections satisfying an assignment support obligation, including support collected by one state on behalf of individuals receiving IV-D services and parents residing in another state, which shall be treated as having been collected in full by each state.

2. NPA collections means support collections on behalf of individuals receiving Title IV-D services, satisfying a support obligation which has not been assigned via Form PA-1J, including collections made by one state on behalf of individuals receiving IV-D services and parents residing in another state. Such interstate collections shall be treated as having been collected in full by each state.

3. Total IV-D administrative costs means total IV-D expenditures claimed by a state in a specified fiscal year, excluding fees paid by individuals, recovered costs and program income, such as interest earned on collections. Another exclusion from administrative costs shall be laboratory fees incurred in determining paternity.

4. In calculating the amount of incentive payments, only those WFNJ/TANF and NPA collections distributed and expenditures claimed by the State in the fiscal year shall be used to determine the incentive payment payable for a year. The methodology to be employed in the calculation of incentive payments will be the same for both program segments (WFNJ/TANF and NPA); however, the incentive payment for NPA, as noted above, cannot exceed the amount earned for WFNJ/TANF collections. Each county will receive its share of the State's incentive payments, based on the collections to expenses ratio truncated at the first decimal place. This methodology requires the determination of the average collections to expenses ratio among the counties. The standard deviation from the average is then determined. A scale is established and a value of six percent is assigned to the State average. For each movement of a full + 1/2 standard deviation by a county's collections to expenses ratio, that county will be entitled to one percent more of incentive payment. Any resultant surplus will be distributed according to the counties' proportionate share of the total qualified caseload.

(b) The Federal Office of Child Support Enforcement (OCSE) will estimate the total incentive to be received by a state for the upcoming fiscal year. In the quarterly collection report, the State will estimate the total payment, thus reducing the amount to be paid to the Federal government to reimburse its share of assistance payments, IV-A and Foster Care maintenance payments. At the end of a fiscal year, the OCSE will determine if the estimated incentive payments were correct and, if not, adjustments will be made accordingly.

1. Collections made in one jurisdiction for another jurisdiction shall be forwarded to the originating jurisdiction no later than 10 days after collection was received.

i. States and other jurisdictions must have an identifying code for interchange procedures.

10:90-16.8 Access to child support information

(a) The New Jersey Child Support Hotline's 800 number will allow interested parties to obtain child support information 24 hours a day, seven days a week, in English or Spanish.

1. By dialing 1-800-621-KIDS, individuals can access the following:

i. Description of support services and how to apply;

ii. Information regarding emancipation, custody and visitation;

- iii. Information regarding direct payments;
- iv. Information regarding credit reporting;
- v. Information regarding the \$50.00 disregard check;
- vi. Tax offset information;
- vii. Check and payment information; and
- viii. A message voice mail system, whereby callers may leave a message for a specific worker.

10:90-16.9 County payment of fees for services

(a) Each county agency will be billed quarterly, according to its usage, for the service provided by the New Jersey Child Support Hotline's 800 number.

(b) Each county will be billed for submitting the following types of cases to the Federal Parent Locator Service (FPLS):

- 1. Child support cases in which an assignment of support rights to the State is not required;
- 2. Non-IV-D locate-only cases;
- 3. Parental kidnapping cases; or
- 4. Child custody cases.

(c) The counties will be billed quarterly, per case, at a rate determined by the Office of Child Support Enforcement of the United States Department of Health and Human Services. FPLS fees paid by the counties will be used to reimburse the Federal government for the expense of operating the FPLS.

10:90-16.10 Responsibilities of the State agency

(a) The State Office of Child Support and Paternity Programs, located in the Division of Family Development, shall be the single organizational unit responsible for the supervision of the administration of the Child Support and Paternity Program. This unit shall be referred to as the Office of Child Support and Paternity Programs (OCSPP). Responsibilities of the OCSPP include, but are not limited to, the following:

- 1. The coordination of activities involving county agency CSP Units, the county probation divisions, county prosecutor's offices, the county sheriff's offices, the State Attorney General's Office, and the Administrative Office of the Courts;
- 2. The operation of the State Parent Locator Service (SPLS) and the coordination of the local parent location efforts;
- 3. The transmittal of regulatory and procedural information to the county agency CSP Units;
- 4. The supervision of the Child Support and Paternity Program including monitoring activities;

5. Application to the U.S. Department of Health and Human Services for use of Federal courts with regard to the collection of child support;

6. The initiation of collection action through the U.S. Secretary of the Treasury;

7. Provision of technical aid to county agencies encountering problems;

8. The coordination of activities involving collection of past due child support through Federal/State tax refunds.

9. Transmittal of all health benefits information, both voluntary and/or on support orders for WFNJ/TANF and Medicaid clients, to the State's Division of Medical Assistance and Health Services.

10. The processing of requests from consumer reporting agencies, concerning the amount of overdue support owed by an obligor (see N.J.A.C. 10:90-16.12(a)). ("Consumer reporting agency" means any person which, for monetary fees, dues, or on a cooperative non-profit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.)

i. Upon receipt of Form CSP-166 (Consumer Credit Request) from a county agency or a direct request from a Consumer Reporting Agency, the Child Support and Paternity Unit (CSPU) shall investigate the status of the person in question, to determine whether that person is identified in a IV-D case as an obligor.

ii. If the person is identified as an obligor but the support account is not more than \$1,000 in arrears, the CSPU will complete Form CSP-167 (Credit Report) and send it to the inquiring consumer reporting agency, indicating that it has been an inappropriate inquiry.

iii. If the person is identified as an obligor and has a support account that is more than \$1,000 in arrears, the CSPU will prepare Form CSP-168 (Notice of Account Disclosure) and send it to the obligor, advising that overdue support is more than \$1,000 and that the consumer reporting agency is to be advised of the amount. The notice will also advise the obligor of procedures to follow for an administrative hearing if the amount owed is contested.

(1) The obligor shall be given 10 days, from the mailing date of Form CSP-168 to request a hearing. If a hearing is requested, Form CSP-169 (Hearing Request) will be forwarded to the Administrative Office of the Courts (AOC). A hearing shall be scheduled within 30 days from the date of receipt of the request. The hearing decision shall be sent to the obligor and simultaneously to the CSPU for further action.

(2) If it is found that the obligor does owe more than \$1,000, the consumer reporting agency shall be advised, via Form CSP-167.

(3) If it is determined that the obligor does not have an arrearage of more than \$1,000, Form CSP-167 will indicate the request was inappropriate.

11. Setting the policy that a late payment fee will not be imposed on obligors who owe child support.

12. The operation of the Automated Child Support Enforcement System (ACSES), which will control, account for and monitor all the factors in the support collection and paternity determination processed under the State plan. At a minimum, this shall include:

i. Maintaining identifying information such as social security numbers, names, dates of birth, home addresses and mailing addresses (including postal zip codes) on individuals against whom support obligations are sought to be established or enforced and on individuals to whom support obligations are owed, and other data as required by OCSPP;

ii. Periodically verifying the information on individuals referred to in (a)12i above with Federal, State and local agencies, both intrastate and interstate;

iii. Maintaining data necessary to meet Federal reporting requirements on a timely basis as prescribed by OCSPP;

iv. Maintaining information pertaining to:

(1) Delinquency and enforcement activities;

(2) Intrastate, interstate and Federal location of absent parents;

(3) The establishment of paternity; and

(4) The establishment of support obligations;

v. Collecting and distributing both intrastate and interstate support payments;

vi. Maintaining and distributing incentive payments to political subdivisions which share in the cost of funding the program and to other political subdivisions, based on efficiency and effectiveness, in accordance with N.J.A.C. 10:90-16.7;

vii. Maintaining accounts receivable on all amounts owed, collected, and distributed;

viii. Maintaining costs of all services rendered, either directly or by interfacing with State financial management and expenditure information;

ix. Accepting electronic case referrals and updating information from the State's Title IV-A program and using that information to identify and manage support enforcement cases;

x. Transmitting information electronically to provide data to the State's WFNJ/TANF system so that the IV-A agency can determine (and report back to the IV-D system) whether a collection of support causes a change in eligibility for, or the amount of aid, under the WFNJ/TANF program;

xi. Providing security to prevent unauthorized access to, or use of, the data in the system;

xii. Providing management information on all IV-D cases under the State plan from initial referral or application through collection and enforcement;

xiii. Providing electronic data exchange with the State Medicaid system to provide for case referral and the transfer of the medical support information;

xiv. Using automated processes to assist the State in meeting State plan requirements and standards for program operations, including, but not limited to:

(1) The automated maintenance and monitoring of accurate records of support payments;

(2) Providing automated maintenance of case records for purposes of management and tracking requirements;

(3) Providing Title IV-D case workers with on-line access to automated sources of absent parent's employer(s) and wage information maintained by the State when available, by establishing an electronic link or by obtaining an extract of the data base and placing it on-line for access throughout the State;

(4) Providing locate capability by automatically referring cases electronically to locate sources within the State (such as the Division of Motor Vehicles, Department of Labor, and other State agencies), and to the Federal Parent Locator Service, and utilizing electronic linkages to receive return locate information and place the information on-line to Title IV-D case workers throughout the State;

(5) Providing capability for electronic funds transfer for purposes of income withholding and interstate collections; and

(6) Integrating all processing of interstate cases with the computerized support enforcement system, including the central registry; and

xv. Providing automated processes to enable OCSPP to monitor State operations and assess program performance.

(b) Federal law mandates that the State must have a written and publicly available plan indicating how and when IV-D child support orders in effect in the State will be periodically reviewed and adjusted. NPA, IV-D child support orders and those interstate non-public assistance cases in which New Jersey is the responding state will be processed by the Office of Child Support and Paternity Programs (OCSPP) for review as provided for in this subsection. Interstate public assistance cases in which New Jersey is the initiating state will be processed by the county agencies. Information with respect to the processing time frames and the responsibilities of the initiating and responding states regarding interstate cases is outlined at N.J.A.C. 10:90-16.25(b).

1. An adjustment is an upward or downward change in the amount of child support, based on the application of State guidelines under New Jersey Court Rule 5:6A for setting and adjusting child support awards, and/or a provision for the child's health care needs through health insurance coverage or other means.

2. Review means an objective evaluation of information, conducted by OCSPP, making it necessary for application of New Jersey Child Support Guidelines, Court Rule 5:6A, to determine:

i. The appropriate support award amount; and

ii. The need to provide for the child's health care needs in the order, through health insurance coverage or other means.

3. Case identification procedures are as follows:

i. Written notice will be given by the OCSPP, advising both parties to a current child support order of their right to request a review within 30 days of the date of the notice.

ii. Those requesting a review will be instructed to write to the OCSPP.

iii. Upon receipt of the request for review, the OCSPP will establish a file. Written notice will be issued to both parties advising that a review of their current order will commence 30 days from the date of the notice, or that no review will be conducted because the request was not made timely within 30 days of the receipt of the identification notice.

iv. A request for information will be mailed to the individual qualifying for a review. The case file will be referenced by obligor's last name, first name, obligee's name and ACSES case number.

v. Upon receiving return responses to initiate the review, qualified cases shall be processed by OCSPP, which shall:

(1) Verify parties' employment and income through an interface with the New Jersey Department of Labor (DOL);

(2) Cross reference the case on ACSES to determine if multiple cases exist (the amount of the obligor's court order(s) in other cases will be considered in accordance with the State guidelines);

(3) Generate employment letters to the last known employer and/or any new employer information received on the parties; and

(4) Generate postal verification letters to the last known address of the parties and/or any new address information received.

4. A case can be eliminated from the review process if it is found that:

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.

10:90-16.11 Responsibilities of the county agency

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

(b) Staffing requirements: The county agency shall allocate and/or hire staff for the county agency CSP Unit in quantity sufficient to effectively and efficiently carry out the provisions of N.J.A.C. 10:90-16.12 and parent locator functions outlined in N.J.A.C. 10:90-16.15 through 16.16. No CSP functions may be performed by staff who also perform income maintenance or social service functions. The county agency 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.

10:90-16.12 Responsibilities of the county agency CSP Unit

(a) The county agency CSP Unit shall be responsible for taking appropriate action to determine cooperation with child support requirements for the receipt of WFNJ cash benefits and Medicaid benefits; 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 WFNJ/TANF and Medicaid recipients. Upon application, NPA persons will be provided with locate services; once location is established, NPA persons will be referred to the Family Division Intake Unit to file a complaint. The county agency 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. 10:90-16.2(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. 10:90-16.10 regarding responsibilities of the State agency.)

(b) Notification to remit support payments to the county agency:

1. Purpose: All support rights due WFNJ/TANF applicant are assigned to the county agency and paid through the appropriate county probation division.

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

(c) Purpose of investigative interview: The purpose of the investigative interview shall be to obtain any information which may be necessary to determine cooperation with child support enforcement for the receipt of WFNJ cash assistance and Medicaid benefits and to assist the county agency 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. 10:90-16.18 through 16.19). Such information shall be recorded in the case record as specified in (e) below.

1. Action resulting from the interview:

i. If the information provided by the WFNJ/TANF applicant/recipient is sufficient to warrant legal action, such action shall be taken in accordance with (d) below. If information provided by the NPA applicant/recipient is sufficient to warrant legal action, the NPA applicant will be referred to the Family Division Intake Unit to file a paternity or non-support complaint and schedule a consent conference.

ii. If the WFNJ applicant/recipient does not cooperate with child support, the county agency CSP representative shall determine the applicant/recipient and the children in the assistance unit to be ineligible for cash benefits under WFNJ; the applicant/recipient shall be ineligible for Medicaid; and the WFNJ/TANF children will continue to receive Medicaid, subject to the requirements of adverse notice (see N.J.A.C. 10:90-9.1(b)1).

iii. If the probation division refers an WFNJ/TANF participant or parent-person to the county agency CSP Unit for noncooperation (see N.J.A.C. 10:90-16.3(b)), the county agency CSP Unit shall conduct an interview with such client within 10 working days to ascertain if noncooperation exists. The county agency 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 division immediately.

(d) Legal action taken by the county agency CSP Unit: If the county agency CSP Unit collects information sufficient to locate the absent parent, legal proceedings shall be initiated for the purpose of establishing paternity, and obtaining support and medical insurance within 90 calendar days of location. Each county 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 bonafide office for the practice of law in this State, either on staff or under contract, sufficient to represent the county agency 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 and utilize 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 division.

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 WFNJ/TANF and Medicaid cases in which paternity has not been acknowledged, the county agency CSP Unit can initiate the voluntary signing of a Certificate of Parentage (COP) and if paternity is contested 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 county agency CSP Unit shall schedule the test at a legally and medically acceptable State approved facility within one year of successful service.

(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 county agency 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 county agency 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 term of the contract.

ii. Payment for Genetic testing: The county agency shall provide initial payment for paternity determina-

tions in WFNJ/TANF and NPA cases through any of the laboratories approved by the State. Although the county agency will provide initial payment, the county agency CSP Unit shall have the court stipulate that the cost for genetic testing shall 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 county agency, it would not be in the best interest of the child to pursue the establishment of paternity.

iv. Order of filiation: Genetic test results which indicate a 99 percent threshold probability that the man undergoing the test is the father of the child shall be considered a conclusive presumption of paternity. A conclusive presumption is the basis for entry of a judgment of paternity. 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.

(1) Any objection to genetic test results shall be made in writing to the appropriate county child support agency within 10 calendar days of receipt of the results.

(2) If no objection is made, a written report of the test results is admissible as evidence of paternity without the need for foundation testimony or other proof of authenticity or accuracy.

v. Order of filiation denied: If a court of competent jurisdiction denies an order of filiation against an individual, the county agency 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 county agency 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 agree-

ment 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 county agency 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 county agency and the client to ensure continuation of the court action should the client's assistance be terminated. In NPA 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 county agency 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 county agency CSP Unit will request payment enforcement through the local probation division by use of URESAs Action Request (0S546-01).

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 II of the U.S. Code is prohibited. Therefore, cases in this category shall be brought to the attention of the local probation division 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 county agency CSP Unit shall notify the work release coordinator that the prisoner is liable for child support.

9. Treatment of cases 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 division within the State, a request for an allotment shall be made through the appropriate probation division.

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

1. CSP case record: Automated CSP case records shall be maintained for all cases within the county agency CSP Unit. The case record shall be established on the Automated Child Support Enforcement System (ACES) within 20 calendar days of 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 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 addresses 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 WFNJ/TANF 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 therefore, 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 county agency 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 WFNJ/TANF may be eligible for this service under Section 402(a)26 of the Social Security Act and 45 C.F.R. 232.11 since the application for assistance assigns support rights to the State. Under Section 454(6) of the Social Security Act, NPA 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 county agency: The county agency in the county in which the application was initiated (whether for WFNJ/TANF or NPA 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 county agency or probation division will be notified, in writing, by the Office of CSP Programs with regard to approval or rejection of the application.

5. Diligent effort to collect delinquent child support: The local county agency CSP Unit/probation division must make diligent and reasonable efforts to collect the delinquent amounts utilizing the State collection mechanisms. These efforts should include, among others, ap-

propriate 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 county agency 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 county agency: The fee to the county agency for master file information is \$.20 per name search and \$2.65 per name for tax return information. The county agency 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 or 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: 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: Form CSP-122 and CSP-123 shall be submitted in duplicate to the State CSP Unit.

8. Documentation by county agency/probation division: The county agency CSP Unit or the probation division 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 agencies are delinquent.

1. Eligible cases: Court ordered 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. County agency responsibilities: County agency 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 county agency by a court of competent jurisdiction via Form CSP-152 Tax Refund Offset Data Form. The probation divisions 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 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 pre-pays these fees, payment from the WFNJ/TANF will be in the form of reimbursement to the Division of Family Development.

3. Automated submittal of cases for IRS Offset: Those probation divisions 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 dollars 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 county agency CSP Units shall not release address information obtained from IRS through the Tax Refund Offset Program to IV-A Unit workers.

(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 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: The county agency 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 county agency by a court of competent jurisdiction. The probation divisions 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 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 State prepays such fees, payments from counties will be in the form of reimbursement to the State.

(j) Payment of costs for unemployment garnishments: County 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 State prepays such fees, payment from the counties will be in the form of reimbursement to the State.

(k) Payment of costs for lottery intercept: County 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 State prepays such fees, payment from the counties will be in the form of reimbursement to the State.

(l) The first \$50.00 of child support collected in a month, that is received in the month due, shall be sent to the WFNJ/TANF 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 WFNJ/TANF eligibility and the amount of the WFNJ/TANF 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 county 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 county agency 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. 10:90-16.6) regarding application fee.) The county agency will provide an application for services on the day a request is made in person. The county agency 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 county agency CSP Units/probation divisions 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 Location 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 agency to locate the absent parent for the purpose of obtaining child support (see N.J.A.C. 10:90-16.15).

ii. Active intrastate support order: If an active intrastate order exists, the local probation division 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, NPA 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 county agency CSP Unit on behalf of a non-public assistance person shall be documented in a CSP case file in accordance with (e) above.

10:90-16.13 Fiscal record maintenance

The county agency 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.

10:90-16.14 Notification of deletions, terminations, suspension or transfer of case/individual

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

10:90-16.15 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 county agency responsibility. To fulfill this requirement, the county agency shall establish a parent locator service within the county agency CSP Unit to perform parent locator services as described in N.J.A.C. 10:90-16.16.

1. The county agency 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 division has responsibility for parent location activities; however, it is recommended that on cases where court ordered support is not being received the county agency notify the probation division of the need for enforcement.

10:90-16.16 County agency parent locator responsibilities

(a) The county agency 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. County agency CSP Unit 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 county agency CSP Unit shall access ACSES to obtain all necessary information to pursue location.

1. Sources: The following sources are to be used by the county agency 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 WFNJ case.

(b) Inter-county cooperation requirement:

1. When an absent parent is believed to be in another county within the State, the county agency 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 into 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 county agency CSP Unit to the appropriate WFNJ worker 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 county agency CSP Unit 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.

10:90-16.17 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 Court (AOC) referrals, out-of-State and out-of-county locate requests.

1. Sources to be utilized by State PLS: The following sources are to be utilized by the State PLS, as appropriate. This list is not exclusive.

- i. State Division of Motor Vehicles;
- ii. State Division of Unemployment and Disability Insurance;
- iii. Records of public assistance agencies;
- iv. Parent Locator Services of other states;
- v. Federal PLS;
- vi. State Department of Treasury; and
- vii. State Department of Corrections.

(b) All State PLS cases, excluding AOC and out-of-country, will access Federal PLS via PC to search the following sources.

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

(c) The State PLS will notify the requesting office immediately via form PA-450A, Source Response Form, or other hard copy, of information obtained on a case.

(d) The "quick locate" process may be used for those interstate cases in which information indicates that the absent parent could be in one of several states.

1. A request for "quick locate" shall be made directly to the State Parent Locator of each of the states the absent parent could be in. The "quick locate" request shall not be made to another state's central registry.

2. A "quick locate" request does not constitute an official interstate case.

3. The "quick locate" request should be sent to the other state's SPLS in whatever format the requesting state chooses, with the exception of the Child Support Enforcement Interstate Transmittal (FSA-200). The FSA 200 shall not be used because it constitutes an official interstate request.

4. It is the responsibility of the requesting state to complete location activity within the 75 calendar day time frame as required by Federal regulations at 45 C.F.R. 303.3(b)(3).

10:90-16.18 Disclosure of information

(a) The use or disclosure of information concerning applicants or recipients of child support services is limited to purposes directly connected with the administration of public assistance as it relates to the establishment of paternity and collection of child support.

1. Information concerning this program may be provided in connection with:

i. Administrative requirements of the Child Support and Paternity Program including Parent Locator activities;

ii. The administration of any Federal or Federally assisted program which provides assistance, in cash or in kind, or services directly to individuals on the basis of need;

iii. Any investigations, prosecutions, criminal or civil proceedings conducted in connection with the administration of this program.

iv. Probation division activities as they relate to the Child Support and Paternity Program.

2. Nothing in this subchapter is to be construed to be in conflict with the regulations on safeguarding information as stated in N.J.A.C. 10:90-7.7.

10:90-16.19 Closing criteria for IV-D cases

(a) All IV-D cases are subject to the case closing criteria set forth in this section. IV-D cases are those cases in which there has been an assignment of rights to support to the State under WFNJ/TANF (45 C.F.R. 232.11), DYFS (Social Security Act, § 471(a)17) or Medicaid (42 C.F.R. 433.146) or an application for IV-D services has been filed and an application fee has been paid.

(b) In order to be eligible for closure, a IV-D case must meet at least one of the following criteria:

1. In the case of a child who has reached the age of majority, there is no longer a current support order, and arrearages are \$150.00 or less or unenforceable as determined in a court of law;

2. In the case of a child who has not reached the age of majority, there is no longer a current support order, and

arrearages are \$150.00 or less or unenforceable as determined in a court of law.

3. The non-custodial parent or putative father is deceased and there has been no support collection for at least 18 months and no further action including a levy against the estate can be taken;

4. Paternity cannot be established because:

i. The child is at least 18 years old and action to establish paternity is barred by a statute of limitation;

ii. A genetic test or a court administrative process has excluded the putative father and no other putative father can be identified; or

iii. The county agency has determined that it would not be in the best interest of the child to establish paternity;

5. The location of the non-custodial parent remains unknown. Regular attempts using multiple sources over a period of three years for welfare-owned cases and over a period of four years for probation-owned cases have been continuously unsuccessful;

6. The non-custodial parent cannot pay support for the duration of the child's minority because the parent has been institutionalized in a psychiatric facility, is incarcerated with no chance for parole, or has a medically verified total and permanent disability with no evidence of support potential and there has been no collection for at least 18 months.

i. When the non-custodial parent is institutionalized, and there has been no collection for at least 18 months, a thorough investigation to ascertain if he or she has any assets shall be completed. The institution should also be contacted to determine a release date. A determination must also be made that no income or assets are available to the non-custodial parent which could be levied or attached for support;

7. The non-custodial parent is a citizen of, and has lived in a foreign country for at least two years; does not work for the Federal government or a company headquarters or offices in the United States; and has no reachable domestic income or assets; the State has been unable to establish reciprocity with the country and there has been no support collection for at least 18 months;

8. The county agency has provided location-only services requested by the custodial parent, legal guardian, attorney or agency of a child who is not receiving aid under Title IV-A of the Act;

9. The NPA custodial parent requests closure of a case and there is no assignment to the State of medical support or of arrearages which accrued under a support order. The closing of a case at the custodial parent's request is subject to the court's approval;

10. There has been a finding of good cause and the State or local IV-A, IV-E, or Medicaid Agency has determined that support enforcement may not proceed without risk or harm to the child or caretaker relative;

11. In a NPA case receiving IV-D services, the county agency is unable to contact the custodial parent within a six-month period despite attempts by both telephone and at least one registered letter; or

12. In a NPA case receiving IV-D services, the county agency documents the circumstances of the custodial parent's non-cooperation and an action by the custodial parent is essential for the next step in providing IV-D services.

(c) In those cases meeting any of the criteria in (a)1 through 7 and (a)11 and 12 above, the custodial parent must be notified, in writing, 60 calendar days prior to closure of the case of the intent to close the case. The case must be kept open if the custodial parent supplies information in response to the notice which could lead to the establishment of paternity or a support order or enforcement of an order.

1. If the case is closed, the custodial parent may request at a later date that the case be reopened if there is a change in circumstances which could lead to the establishment of paternity or a support order or enforcement of any order.

(d) The county agency must retain all records for cases closed for a minimum of three years.

(e) If the county agency has complied with the State's case closing criteria, as outlined at (a) through (c) above, the State may close a case regardless of a support order or the amount of arrearages owed.

(f) Case closure does not affect the support order or arrearages which have accrued under the order; it only means that services under the IV-D program will no longer be provided and no Federal Financial Participation is available for those cases. The support order remains in effect and arrearages continue to accrue for the life of the order. These arrearages are judgments by operation of law and subject to enforcement. Until the court terminates the support obligation or the obligation ends by virtue of emancipation of the minor child or the court amends the support order to command the obligor to pay directly, the probation division must maintain overall responsibility to enforce and monitor the case. However, if after an WFNJ/TANF case is IV-D closed and a judgment is satisfied, the case will be reopened on ACSES to reflect the collection, the money will be processed through the system, and the case will then be closed again.

10:90-16.20 Retention and destruction of case records

(a) Authorization: Each county agency will retain all material normally kept in the IV-D case folder for the time periods indicated below. At the expiration of such time period the Child Support and Paternity Unit may, at its option destroy records in accordance with the retention period indicated below, continuing to retain those portions as indicated in (b) below. In permanent available archives, the county agency CSP Unit will retain information showing the date and manner of destruction of each "IV-D case folder" destroyed.

1. Note: "IV-D case file" can be construed to mean the referral document from the WFNJ worker, and any and all other documents and information relevant to the client and the absent parent(s).

(b) Retention periods:

1. No arrears owed to county agency "Closed Case": In destroying records in which no arrears are owed in the court order, the county agency CSP Unit should provide for the permanent retention of information by which to assure itself in the future of the absence of any claim and the reason(s) therefor.

<u>Case Folders</u>	<u>Retention Period</u>
i. Absent parent has died during period a court order for child support existed.	Three and one-third (3½) years which after agency action or court action, or all arrears have been satisfied.
ii. Client terminates her assistance grant and no court order for child support existed at any time.	
iii. Client terminated assistance grant and all arrears owed to the county agency have been satisfied.	

2. Reimbursement owing "Open Cases": In each instance of unresolved "suits and claims" matters, open and unpaid assigned support or unpaid arrearage amounts, retain all records in each case until the question is resolved, then retain accordingly.

<u>Case Folders</u>	<u>Retention Period</u>
i. Client terminates assistance.	Three and one-third (3½) years after recovery of all arrearage owed to the county agency is satisfied.
ii. Client is receiving an assistance grant, order for support exists or efforts are continuing to establish an order for support.	

(c) Requests for destruction of case records will be in accordance with N.J.A.C. 10:90-7.13(c).

(d) When disposal is authorized records must be destroyed in accordance with N.J.A.C. 10:90-7.13(d).

10:90-16.21 Child Support Guidelines (New Jersey Supreme Court Rule 5:6A)

(a) The Child Support Guidelines of the New Jersey Supreme Court Rule 5:6A are incorporated herein by reference. The guidelines shall be applied when an application for support, made pursuant to any section of the rule, is considered by the court.

1. The guidelines may be modified or disregarded by the court only where good cause is shown. Good cause shall consist of:

i. The considerations set forth in considerations in the Use of Child Support Guidelines, or the presence of other relevant factors which may make the guidelines inapplicable or subject to modification;

ii. The fact that injustice would result from the application of the guidelines.

2. In all cases, the determination of good cause shall be within the sound discretion of the court.

(b) The Child Support Guidelines Worksheet shall be completed by the county agency, using instructions in the Child Support Guidelines Worksheet Instructions and information in Considerations in the Use of Child Support Guidelines, Percentages Used in Developing the Child Support Guidelines and Child Support Guidelines Chart.

10:90-16.22 Income withholding

(a) In the case of a child support order that is issued or modified after November 1, 1990, the income of an absent parent shall be subject to withholding, regardless of whether support payments by such a parent are in arrears, unless the following conditions exist:

1. Either the absent parent or the custodial parent demonstrates, and the court or administrative authority finds, that there is good cause not to require immediate income withholding. Good cause must be based on both:

i. A written determination why immediate income withholding would not be in the best interests of the child; and

ii. Proof of timely payment of previously ordered support.

2. A written agreement is reached between the absent parent and custodial parent which provides for an alternative arrangement. If there is an assignment of support rights to the county agency, the county agency must also be a party to the written agreement.

(b) In cases of income not subject to immediate withholding, the income of the absent parent will be subject to withholding on the date the absent parent fails to make support payments at least equal to the support payable for 14 calendar days.

10:90-16.23 Distribution of arrearage payments on child support orders

(a) Arrearage priorities: Payments on arrearages accrued from past due child support shall be used to satisfy claims as follows:

1. If the obligee is receiving WFNJ/TANF cash assistance, any payment must first satisfy arrearages owed to the county agency before any payment to the obligee.

2. If the obligee has never received WFNJ/TANF cash assistance, all payments shall go to obligee.

3. If the obligee once received WFNJ/TANF cash assistance:

i. Payments from tax intercepts (Federal and State income tax and Homestead Rebate) first shall satisfy any arrearages owed the county agency;

ii. All other payments (for example, wage executions and unemployment garnishment) shall satisfy arrearages in the following priority order:

(1) During the five-month period, following the last month of WFNJ/TANF eligibility, payments collected in excess of the current support for that period, are first used to reimburse the county agencies for arrearages that accrued while the family was receiving WFNJ/TANF cash assistance.

(2) Subsequent to the five-month period, arrearages which have accrued to the obligee since leaving public assistance shall go to the obligee.

(3) Arrearages assigned to the county agency up to the amount of assistance granted shall go to the county agency.

(4) Any remaining arrearage balance owed to the obligee before receiving public assistance shall go to the obligee.

10:90-16.24 Rules concerning application fee for NPA applicants

(a) NPA individuals, who do not have an active support order and who do not know the location of the obligor, shall file an application with the county agency CSP Unit. (Individuals with an active support order or those without an active support order who know the whereabouts of the obligor shall file the application for IV-D services at the appropriate probation division.) See N.J.A.C. 10:90-16.10 regarding the State of New Jersey Title IV-D Program Application for Child Support Services.

(b) Each NPA applicant shall pay an application fee in the amount of \$6.00.

1. The applicant shall be given a receipt to cover the fee, a copy of which shall be retained in a case record file.

(c) The \$6.00 fee shall be deposited in the Administration Account as an offset against CSP administrative costs.

10:90-16.25 Review and adjustment of child support orders (WFNJ/TANF, foster care and Medicaid cases)

(a) The county agency CSP Unit shall review all WFNJ/TANF, foster care and Medicaid cases with a court order at least once every three years, or at the request of either parent subject to the order, for possible adjustment. If a request for review is made before the three year time frame, and the request is determined to be frivolous by the county agency CSP Unit, the request may be denied.

1. An adjustment is an upward or downward change in the amount of child support based upon an application of State guidelines under New Jersey Court Rule 5:6A for setting and adjusting child support awards and/or a provision for the child's health care needs, through health insurance coverage or other means.

2. Review means an objective evaluation by the county agency CSP Unit of information necessary for application of the New Jersey Child Support Guidelines, New Jersey Court Rule 5:6A, to determine:

- i. The appropriate support award amount; and
- ii. The need to provide for the child's health care needs, through health insurance coverage or other means.

3. Examples of a frivolous request would be as follows:

- i. An obligor's income has not increased or decreased by a minimum of 20 percent.
- ii. An obligor is temporarily out of work or temporarily injured and unable to work.

(b) The procedure for the review of cases shall be as follows:

1. An Automated Child Support Enforcement Systems (ACSES) report has been developed to identify appropriate cases for review for possible adjustment. The review date field on the ACSES USM1 and USM2 screens will trigger a report of cases in which the date is equal to or greater than two years and 11 months from the run date of the report.

2. The county agency CSP Unit shall screen cases on the report to identify those cases that should be adjusted to bring them into compliance with the Child Support Guidelines at New Jersey Court Rule 5:6A.

3. A case can be eliminated from the screening if it is found that:

- i. There is a good cause determination that the review of the case is not in the best interest of the child(ren);
- ii. The current order is less than three years old or the case has been reviewed in the last three years, unless a review was requested by either parent subject to the order and it has not been determined to be a frivolous request by the county agency CSP Unit. Examples of a frivolous request would be as outlined in (a)3 above; or
- iii. The obligor is institutionalized.

4. The review date field on the USM1 and USM2 shall be updated indicating the date that a review was completed. If the case was eliminated from the adjustment cycle, the reason should be documented.

i. The county agency CSP Unit shall determine within 15 calendar days after October 13, 1993, or the date the child support order is 36 months old, whichever is later, whether a review should be conducted.

ii. In handling a request for a review, the county agency CSP Unit has up to 15 calendar days from the receipt of a request to determine whether a review should be conducted.

iii. Within 180 days of determining that a review should be conducted or locating the non-requesting parent, whichever occurs later, the State must complete the process by adjusting the order or determining the order should not be adjusted and completing the steps outlined at (c) and (d)1 through 4 below.

iv. Interstate cases should also follow the 180 calendar day timeframe for completing the review and adjustment process.

5. When it is determined that a review should be conducted on an interstate case and New Jersey is the initiating state, a request for review shall be sent to the responding state within 20 calendar days of receipt of sufficient information to conduct a review.

i. The information the responding state needs to act on the request must be provided.

ii. If the request for review is the first contact between the initiating and responding states in the case, the initiating state must send the request for review to the interstate central registry in the responding state.

iii. If the initiating state has previously referred the case to a responding state for action, the request for review may be sent directly to the appropriate agency in the responding state for processing.

iv. The initiating state is also responsible for sending to the parent in its state a copy of any notice issued by a responding state in connection with the review and adjustment of an order. This notice must be sent to the parent within five working days of receipt in the initiating state.

6. When acting as the responding state in a case which another state has determined a review is necessary, the laws and procedures for review and adjustment of the responding state apply. This includes the use of the responding state's child support guidelines.

i. Within 15 calendar days of receipt of a request for review from another state, a determination must be made as to whether or not the review will be conducted.

ii. The determination not to conduct a review because it would not be in the best interest of the child cannot be made by the responding state. This determination must be made by the initiating state.

(c) The county agency CSP Unit shall process cases for review in the following manner:

1. Information on the obligor's current income and employment should be obtained via the USM2 screen and/or on-line access to the Department of Labor's Wage Reporting File through Honeywell terminals. Information obtained will be verified through a letter generated to the employer. Medical insurance information shall also be verified.

2. The case shall be cross-referenced on ACSES to determine if multiple cases exist (the amount of the obligor's court orders will figure in the use of the guidelines).

3. Verification of the obligor's address shall also be obtained.

4. In cases where there has been no change in the income, however, medical support is not currently ordered, a motion shall be filed to have the order adjusted to include medical support when health insurance is available to the obligor at a reasonable cost. If health insurance is not available to the obligor at a reasonable cost at the time of the modification, this order for support will go into effect when health insurance at a reasonable cost is actually available.

i. Health insurance is considered reasonable in cost if it is employment related or other group health insurance, regardless of service delivery mechanism.

(d) Recommendations for adjustment shall be based on the New Jersey Child Support Guidelines, New Jersey Court Rule 5:6A.

1. If the recommended amount of adjustment is a 20 percent or more increase over the current order, a motion shall be filed to have the order modified.

2. If the recommended amount of adjustment is a 20 percent or more decrease, the obligor should be directed to file appropriate application with the court.

3. Each parent subject to a child support order shall be notified of any review of the order at least 30 calendar days before commencement of the review.

i. This notification requirement may be satisfied by filing a Notice of Motion, provided both parties are notified 30 calendar days prior to the hearing.

ii. If modification is warranted, the Notice of Motion may serve as a notice to both parties of the review determination. If either party disagrees with the determination, they may challenge the decision to a judge. If no adjustment is warranted based on a review, a notice shall be issued as outlined in (d)4i and ii below.

4. Following any review the county agency CSP Unit shall notify each parent subject to the child support order of the following:

i. Any adjustment or a determination that there should be no change; and

ii. Each parent's right to initiate proceedings to challenge the adjustment or determination within 30 calendar days after the date of the notice.

(e) The county agency Statistical Report shall be completed each month to reflect the number of cases reviewed and the number of cases adjusted.

(f) The Family Support Act of 1988 (Public Law 100-485), Section 103(c), mandates that between October 13, 1990 and October 13, 1993 the county agency CSP Unit must target for review and adjustment, if appropriate, the existing IV-D cases in which support is assigned to the county agency and which have not been reviewed or adjusted within 36 months. These cases shall be addressed by reviewing one-third of the caseload per year, over a three year period.