

**CHAPTER 90**

**WORK FIRST NEW JERSEY PROGRAM**

**Authority**

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

**Source and Effective Date**

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

**Chapter Expiration Date**

Chapter 90, Work First New Jersey Program, expires on July 16, 2012.

**Chapter Historical Note**

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 Chapter 90, The Handbook for Home Services Program, was repealed by R.1980 d.208, effective May 9, 1980.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

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

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

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

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

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

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

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

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 As a part of R.2003 d.226, Subchapter 18, Essex/Atlantic Substance Abuse Research Demonstration, was repealed and Subchapter 18, Substance Abuse, and Subchapter 20, The Family Violence Option Initiative, were adopted as new rules, effective June 16, 2003.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

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

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i. When a WFNJ family becomes ineligible for WFNJ for either of the two reasons cited at (a)8i(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 (a)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 (a)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.

(b) Kinship caregivers are not subject to the family cap provision for the kinship children in their care.

(c) A child who is subject to the family cap who becomes a member of a different assistance unit shall no longer be subject to the family cap provision.

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

In (a)1, substituted "full months" for "months"; added (a)4i to (a)4ii; and in (a)8i, cited (a)8i(1).

Amended by R.2003 d.226, effective June 16, 2003.  
See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).

Deleted (a)9.  
Amended by R.2009 d.289, effective September 21, 2009.  
See: 40 N.J.R. 5494(a), 41 N.J.R. 3435(a).

In the introductory paragraph of (a), inserted "and non-recipient" and "with the exception of non-needy caregivers,"; in (a)7i, substituted "minor parent" for "parent-minor" twice, "minor parent's" for "parent-minor's", and "10-month" for "10 month"; and added (b) and (c).

**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 or 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.

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

**10:90-2.20 The Supportive Assistance for Individuals and Families (SAIF) Program**

(a) The Supportive Assistance for Individuals and Families (SAIF) Program shall provide intensive case management (ICM) at 48 months for Work First New Jersey (WFNJ) recipients who have complied with WFNJ requirements and have not become self-sufficient and who do not appear to be

exemptible from time limits under N.J.A.C. 10:90-2.4, except for those recipients who would meet the definition of "chronically unemployable." Within the limits of available funding, recipients who appear to be chronically unemployable shall receive intensive case management through the SAIF Program. The goal of the SAIF Program is to assist SAIF Program participants to become self-sufficient before they reach the 60-month time limit.

(b) Intensive case management shall be provided for a total period of 24 months. Recipients shall be required to continue to meet financial and non-financial eligibility requirements for the WFNJ program.

(c) Time limit extensions shall not be granted under N.J.A.C. 10:90-2.5. Instead, all individuals who have exhausted 48 months of benefits, and who are not exempt from time limits, may be eligible to receive assistance for a total period of 24 months under the SAIF Program.

(d) After 48 months of assistance, participation in the SAIF Program becomes a WFNJ program requirement for eligible recipients and the participant shall begin to receive intensive case management services. As a condition of continued eligibility, participants shall receive and cooperate with individualized and intensive case management, and, if appropriate, substance abuse treatment and mental health services. Participation in the SAIF Program is a WFNJ program requirement for the recipients who are required to participate in the SAIF Program. The individual shall fully participate in the SAIF Program to continue receiving cash assistance benefits. If a SAIF participant fails to cooperate with SAIF requirements without good cause, the WFNJ case shall be closed.

(e) SAIF Program participants shall cooperate in the development of a new Individual Responsibility Plan (IRP). The IRP shall be updated every six months. See N.J.A.C. 10:90-4.8 regarding the provisions for the IRP.

(f) Failure, without good cause, to begin or continue to participate in an agreed-upon assigned activity, shall be considered as refusal to cooperate without good cause. This action shall result in the sanction procedures and penalties being imposed, as set forth at N.J.A.C. 10:90-4.13 through 4.18.

- 1. The SAIF Program shall adhere to all notice and hearing requirements as set forth at N.J.A.C. 10:90-9.

(g) SAIF Program participants shall continue to be eligible for WFNJ social and work support services.

(h) Participants shall receive priority treatment by all WFNJ vendors. When referred for an assessment or treatment, a SAIF Program participant shall be given the first available appointment, and in all cases shall be seen within 30 days.

1. This includes, but is not limited to, referrals for substance abuse assessment and treatment.

(i) Child welfare is a primary component of the SAIF Program. As a result, a strong link must be established with the Division of Youth and Family Services (DYFS) for families with dual cases. DYFS records shall be consulted for all SAIF Program participants at the beginning of the ICM period to identify if an open DYFS case exists.

(j) An individual who has exhausted 60 cumulative-months of WFNJ benefits may be eligible for two six-month extensions by participating in the SAIF Program, unless the individual has already received 24 months of assistance through the SAIF Program.

1. Individuals who have received less than 24 months of assistance through the SAIF Program may be eligible to participate in the SAIF Program for the remainder of the 24-month period if he or she meets the criteria in this section.

(k) Assistance may be continued after an individual has exhausted 24 cumulative-months in the SAIF Program only if the individual meets the criteria for an exemption from the WFNJ 60-month time limit at N.J.A.C. 10:90-2.4 or if he or she has not exhausted his or her 60-month time limit according to the Federal TANF clock. Eligibility for continuation of assistance shall be evaluated prior to reaching the 24-month time limit. If the household is ineligible for an exemption, the cash assistance case shall be terminated. Terminations shall require prior approval and authorization by the Division of Family Development.

(l) Prior to terminating the cash assistance case of any SAIF Program participant with an open DYFS case, the county welfare agency shall refer the family to community-based agencies for services appropriate for their needs. Additionally, the county welfare agency shall notify the Department of Children and Families that the participant's cash assistance will be terminated.

New Rule, R.2003 d.340, effective August 18, 2003 (operative October 1, 2003).

See: 35 N.J.R. 1824(a), 35 N.J.R. 3859(b).

Amended by R.2006 d.137, effective April 17, 2006.

See: 37 N.J.R. 4153(a), 38 N.J.R. 1736(a).

In introductory paragraph (a), updated internal reference to include (a)9; added (a)9; in (b), deleted "in increments not to exceed six months" and "up to".

Repeal and New Rule, R.2007 d.224, effective August 6, 2007.

See: 39 N.J.R. 1222(a), 39 N.J.R. 3382(a).

Section was "Work First New Jersey Post 60-Month Pilot Program: Supportive Assistance for Individuals and Families (SAIF) Program".

Amended by R.2010 d.102, effective June 21, 2010.

See: 41 N.J.R. 4052(a), 42 N.J.R. 1199(c).

Section was "The Commissioner's Pilot Program for Long-Term Welfare Recipients". Substituted "SAIF Program" for "pilot program" throughout; in (a) and (j)1, substituted "the SAIF Program" for "this pilot program"; in (a), substituted "Supportive Assistance for Individuals and Families (SAIF) Program" for "Commissioner's Pilot Program for Long-Term Welfare Recipients" and "Within the limits of available funding, recipients" for "Recipients"; in (c), substituted "Time limit" for "For the duration of the pilot program, new"; in (d), inserted the third through fifth sentences; in the introductory paragraph of (j), substituted "SAIF" for "Supportive Assistance for Individuals and Families (SAIF)"; in (j)1, substituted the second occurrence of "in" for "under"; in (k), inserted "or if he or she has not exhausted his or her 60-month time limit according to the Federal TANF clock"; and in (l), substituted "Families" for "Family Services".

### 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 to adolescent parents and from sponsors to eligible aliens.

(b) Initial financial eligibility for WFNJ benefits shall be determined through an initial test 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 initial 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 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 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 equals or exceeds the maximum benefit payment level for the appropriate unit size except for cases with earned income that are subject to six-month reporting requirements. Such cases need not report changes in earned income until such time as the assistance unit's total income exceeds 130 percent of the Federal Poverty Level (FPL) as published by the Department of Health and Human Services in the Federal Register. However, if the assistance unit does report a change, the county/municipal agency shall act on that change.

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

In (a), substituted "to adolescent parents and from sponsors to eligible aliens" for "and sponsors" at the end; in (b)1, deleted "equal to or" following "income" in the last sentence; in (c), deleted "is equal to or" following "income", and inserted "equals or" following "income"; and in (d), added 2.

Amended by R.2003 d.226, effective June 16, 2003.  
See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).

Rewrote (c); deleted (d).

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

(a) For the initial financial eligibility test, that is, 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 eligi-

ble 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.

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

In (a), added "For the initial financial eligibility test, that is" at the beginning.

**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 less than the applicable benefit level, WFNJ/TANF financial eligibility exists. When the total countable income equals or exceeds the applicable benefit level, the assistance unit is no longer eligible for WFNJ/TANF benefits except for cases with earned income that are subject to six-month reporting requirements. Such cases need not report changes in earned income until such time as the assistance unit's total income exceeds 130 percent of the Federal Poverty Level (FPL). However, if the assistance unit does report a change, the county/municipal agency shall act on that change.

**WFNJ/TANF Schedules I and II**

**WFNJ/TANF Initial Maximum Allowable Income Levels and Maximum Benefit Payment Levels**

**Families with Dependent Children**

Schedule I	Schedule II
Initial Maximum Allowable Income Levels	Maximum Benefit Payment Levels
\$243	\$162
483	322
636	424
732	488
828	552
924	616
1,015	677
1,092	728
Add \$75 for each additional person	Add \$50 for each additional person
	8

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

In (b), deleted "equal to or" following "income is" in the first sentence, and inserted "equals or" following "income" in the second sentence.

Amended by R.2003 d.226, effective June 16, 2003.  
See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).

Rewrote (b).

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

(a) For the initial financial eligibility test, that is, 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.

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

In (a), added "For the initial eligibility test, that is." at the beginning.

**10:90-3.5 WFNJ/GA employable, initial allowable maximum income and maximum benefit payment 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 less than the applicable benefit level, WFNJ/GA financial eligibility exists. When the countable income equals or exceeds the applicable benefit level, the assistance unit is no longer eligible for WFNJ/GA benefits except for cases with earned income that are subject to six-month reporting requirements. Such cases need not report changes in earned income until such time as the assistance unit's total income exceeds 130 percent of the Federal Poverty Level (FPL). However, if the assistance unit does report a change, the county/municipal agency shall act on that change.

**WFNJ/GA Employable Assistance Units Schedules III and IV**

**WFNJ/GA Initial Maximum Allowance Income Levels and Maximum Benefit Payment Levels for Employable Single Adults and Couples without Dependent Children**

Schedule III		Schedule IV
WFNJ/GA Employable Maximum Allowable Income Levels	Number in Assistance Unit	WFNJ/GA Employable Maximum Benefit Payment Levels
\$210	1	\$140
290	2	193
366	3	244
420	4	280
480	5	320
540	6	360
597	7	398
656	8	437
Add \$48 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.  
Amended by R.1998 d.42, effective January 20, 1998.

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

In (b), deleted "equal to or" following "income is" in the first sentence, inserted "equals or" following "income" in the second sentence, and in the table, changed headings and decreased income level added for additional persons.

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

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

Rewrote (b).

**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 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 less than the applicable benefit payment level. When the income equals or 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 Initial Maximum Benefit Payment Levels for Unemployable Single Adults and Couples without Dependent Children**

Number in Assistance Unit	WFNJ/GA Unemployable Maximum Benefit Payment Levels
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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).

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

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

In (a), deleted "equal to or" following "income is" throughout, and inserted "equals or" following "income" in the last sentence.

Administrative correction.

See: 36 N.J.R. 4316(a).

**10:90-3.7 Computing prorated cash assistance benefits for WFNJ TANF/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 and unearned income**

(a) An earned income disregard shall not be applied in the initial financial eligibility determination for applicants who are employed. If financial eligibility exists, the appropriate disregard as set forth in (b) below shall be applied in computing the monthly cash assistance benefit thereafter.

(b) In computing the cash assistance benefit for WFNJ recipients who are employed an average of 20 hours or more per week, 100 percent of the gross earned income shall be disregarded for the first full month in which the earned income would be counted. After the 100 percent disregard for the first month of employment, if the recipient is employed for an average of 20 hours or more a week, 75 percent of the gross earned income shall be disregarded for six consecutive months, and 50 percent of the gross earned income shall be disregarded for each continuous month of employment thereafter. If the recipient is employed less than an average of 20 hours a week, after the 100 percent disregard for the first month of employment, 50 percent of the gross earned income shall be disregarded for each continuous month of employment thereafter. The appropriate disregard shall be applied to the earned income of each person in the assistance unit.

1. For purposes of budgeting income from new employment, earned income shall be budgeted prospectively. Recipients shall report earned income no later than 10 days from the date the recipient receives his or her first paycheck. The disregard shall not be provided until the employment hours and earnings are verified by the employee's pay stub(s) or equivalent employer supplied information. For self-employed recipients, earnings are the gross income less business expenses. Self-employment hours are determined by dividing the recipient's self-employment earnings by the Federal minimum wage. CWAs/MWAs have 10 days from the date that such income is reported to act on the change. The 100 percent disregard shall then be applied for the first full month for which the income will be budgeted.

2. When budgeting new income from employment, if the agency is not able to budget the income for the first month following the month such income is reported, then the income and the 100 percent disregard shall be applied for the first of the next following month.

3. If a recipient's hours of employment are reduced below 20 hours per week during the 75-percent disregard period, through no fault of his or her own, he or she shall be entitled to receive the balance of any unused months of the 75-percent disregard, provided he or she has returned to being employed a minimum of 20 hours or more per week and it is within the six-month disregard period.

4. If an employable recipient has a documented disability that limits the person from accepting 20 hours of employment per week, the WFNJ agency may waive the 20

hours or more requirement and the recipient shall be entitled to the 75 percent earned income disregard for six consecutive months of employment, and the 50 percent earned income disregard for each continuous month of employment thereafter.

(c) 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 and the 75-percent disregard may be applied again only once every 12 months; otherwise, the 50 percent disregard shall be applied for each continuous month of employment.

(d) 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.

(e) 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.

(f) In situations where a WFNJ applicant's or recipient's State or Federal benefit such as RSDI has been reduced due to an overpayment, the actual amount received from such entitled State or Federal benefit shall be counted when determining the cash assistance benefit.

(g) 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.

(h) If an assistance unit is eligible for benefits and in receipt of child support, up to \$100.00 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 \$100.00, the assistance unit shall receive the lesser amount. If the amount of child support received is \$100.00 or more, the assistance unit shall receive \$100.00. Thus, the total amount of child support disregarded shall not exceed \$100.00 per month per eligible assistance unit.

(i) 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).

(j) 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).

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

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

Added (c)1 and 2.

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

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

Rewrote the section.

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

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

Added (k).

Special amendment, R.2008 d.182, effective June 3, 2008.

See: 40 N.J.R. 4232(a).

Section was "Computing the WFNJ TANF/GA monthly cash benefit using disregards for earned income". Rewrote (a) and the introductory paragraph of (b); in (b)1, inserted the third through fifth sentences; added (b)3 and (b)4; in (c), inserted "and the 75-percent disregard" and deleted "for the first full month of employment" following "again"; and deleted (k).

Amended by R.2009 d.135, effective April 20, 2009.

See: 40 N.J.R. 5501(a), 41 N.J.R. 1861(a).

In (h), substituted "\$100.00" for "\$50.00" throughout.

### 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, RSDI, 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 averaged over a 12-month period.

(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.

1. Allowable deductions (expenses) for self-employment income for WFNJ recipients include the identifiable costs of labor, stock, seed, fertilizer, raw material, payments on the principal and interest of the purchase price of income-producing real estate and capital assets, equipment, machinery and other durable goods, insurance premiums and taxes paid on an income-producing property.

2. Costs which are not allowable deductions in calculating self-employment income include net losses from earlier periods, personal expenses such as entertainment and travel to and from work, money set aside for retirement and taxes on retirement funds, depreciation, and Federal, State, and local income taxes.

3. Net losses incurred by self-employed farmers who have earnings or anticipated annual gross earnings of \$1,000 or more from the farming enterprise, must be prorated and offset against other countable income in the following order:

- i. First against other self-employment income; and
- ii. Second against the total amount of earned or unearned income deduction after the earned income deduction has been applied.

4. 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.

5. 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; RSDI; 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.

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

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

In (b) and (e), inserted references to RSDI.

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

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

Rewrote (d).

Amended by R.2009 d.261, effective August 17, 2009.

See: 41 N.J.R. 1368(a), 41 N.J.R. 3091(a).

In (c)1, substituted “averaged over a 12-month period” for “prorated over the stated term of the contract only”.

**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. Good cause shall be said to exist in this instance if the recipient, in spite of having made all good faith efforts (see (c)3 below), has nevertheless been unsuccessful in liquidating the real property and there is reason to believe that conditions will change, thereby making liquidation possible. 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 (c)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**

<u>Amount in Excess of Resource Limit</u>	<u>Period of Assistance Unit Disqualification</u>
\$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

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

In (c)1, inserted a third sentence; and in (c)2, substituted a reference to (c)4 for a reference to (a)4 at the end.

**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 WFNJ/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;

i. For purposes of budgeting income from new employment, earned income shall be budgeted prospectively no later than 10 days from the date the recipient reports the receipt of his or her first paycheck. The 100 percent disregard shall then be applied for the first full month for which the income will be budgeted.

ii. When budgeting new income, the agency is required to send timely or adequate notices to clients for the month in which the 100 percent disregard is applied. If the agency is unable to provide the recipient with timely notice and adequate notice of budgeting or has insufficient time to budget the income for the first month following the month the recipient reports the receipt of the paycheck, then the income and the 100 percent disregard shall be applied for the first of the next following month.

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 unearned 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 or in the case of new earnings no later than 10 days from the date of receipt of the first paycheck. For cases with earned income see (e)3 below regarding reporting requirements. 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 source of unearned income; permanent or long term changes in unearned income; 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.

3. Cases with earned income are assigned a six-month reporting cycle that coincides with the time of the next case redetermination. Cases with earned income are not required to report changes in monthly earned income unless total monthly household income exceeds 130 percent of the Federal Poverty Level (FPL). This is the only required change that a recipient on six-month reporting must report prior to the next case redetermination.

i. Only assistance units that have countable earned income are eligible for six-month reporting. This includes assistance units that have earned income from a disqualified member and those in which the only earned income is from self-employment, even if, after the cost of producing that income is deducted, the actual earned income is zero.

ii. If a six-month assistance unit reports any changes, the county/municipal agency shall act on those changes in accordance with (e)1 and 2 above. Other than the requirement to report earned income over 130 percent of the FPL, the only change reporting to be encouraged is one that will result in the assistance unit obtaining higher benefits during the six-month period, such as losing a job or source of unearned income; permanent or long term changes in hours worked and/or rate of pay or permanent or long term changes in unearned income that result in decreased earned income to the household; changing from full-time to part-time employment; short term plant closings (such as one or more weeks) or periods of sick leave without compensation (more than one day); or addition of an eligible unit member. The agency shall, verbally and in writing, inform all recipients subject to six-month reporting that they are not required to report increases in earned income if the total earnings are less than 130 percent of the Federal Poverty Guidelines, and that any reporting of an earnings increase will result in a decrease in benefits. In addition, the agency shall, verbally and in writing, inform all recipients subject to six-month reporting that they are encouraged to report a decrease in earnings, as a decrease in earnings could result in an increase in benefits.

iii. County/municipal agencies shall act on all changes that are received from sources other than the assistance unit when such information is considered verified upon receipt. Verified upon receipt means that the information received is not questionable. Such information includes, but is not limited to, the Beneficiary Data Exchange (BENDEX) and the State Data Exchange (SDX) computer matches, letters from employers verifying wages and reports from other county/municipal agencies that an assistance unit member has left the unit and is applying in another jurisdiction.

iv. When an assistance unit is on six-month reporting and exceeds the income eligibility standard for a WFNJ TANF/GA grant, the unit is not required to report changes in earnings until their total income equals or exceeds 130 percent of the FPL or until the next redetermination, whichever occurs first. Since such households are not required to report changes that do not exceed 130 percent of the FPL, no overpayment has occurred and no claim shall be established.

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

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

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

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

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

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

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

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

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

In (c), substituted a reference to WFNJ/FS cases for a reference to PA/FS cases; and added (d)1i and ii.

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

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

Rewrote (d) and (e).

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

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

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

1. For earned income, the gross amount to be considered available to the eligible assistance unit shall be

determined without application of earned income disregards provided for at N.J.A.C. 10:90-3.8.

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

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

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

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

Administrative correction.

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

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

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

Added (c); recodified former (c) through (e) as (d) through (f).

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

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

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

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

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

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

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

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

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

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

2. The gross income derived from the computation procedures in (b)1 above shall be compared to 150 percent of the Federal Poverty Income Guidelines. Provided the household's gross income is less than the amount for the appropriate household size, initial WFNJ eligibility shall be established for the children of the natural or adoptive parent (excluding children who are recipients of SSI benefits). If the household's gross income equals or exceeds the applicable poverty level guideline amount, all members of the household shall be ineligible for WFNJ benefits.

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

ii. The grant for eligible children shall be:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) The income and resources of an alien's sponsor shall be deemed to be unearned income and resources of an alien applying for WFNJ for a period of three years following the

alien's entry into the United States. For purposes of deeming, a sponsor is an individual who executed an affidavit of support, Form I-134, or similar agreement (except as noted in (j) below) on behalf of an alien (who is not the child of the sponsor or the sponsor's spouse) as a condition of the alien's entry into the United States.

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

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

1. Any alien who was sponsored by a public or private agency or organization, and is not exempt from deeming provisions as described in (i) or (j) below, shall be ineligible for public assistance for a period of three years following his or her entry into the United States unless the county or municipal agency determines that the 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) or (j) below, shall provide the county or municipal agency with any information and documentation necessary to determine the income and resources of the sponsor and the sponsor's spouse (if applicable and if living with the sponsor) that can be deemed available to the alien, and obtain any cooperation necessary from the sponsor.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

the overpayment and recovery will not be made from this sponsor.

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

i. Any State administered or supervised program established by the Social Security Act; or

ii. Any cash benefit program administered by the Social Security Administration and established by the Social Security Act.

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

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

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

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

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

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

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

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

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

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

qualifying quarters of work and becomes an otherwise eligible alien.

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

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

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

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

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

**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 appropriate disregard as specified at N.J.A.C. 10:90-3.8;

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

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

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

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

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

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

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

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

**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. 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 New Jersey Department of Health and Senior Services for purposes other than the care or treatment of drug or alcohol abuse), the monthly assistance payment (\$884.05), 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 notice of administrative change 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. 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. See N.J.A.C. 10:90-13.4 regarding care in nursing facilities.

4. 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.)

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

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

Administrative Change.

See: 30 N.J.R. 2090(a).

Administrative change.

See: 31 N.J.R. 873(a).

Administrative change.

See: 32 N.J.R. 1395(a).

Special amendment, R.2000 d.392, effective September 1, 2000 (to expire March 1, 2001).

See: 32 N.J.R. 3615(a).

In (a)3, changed N.J.A.C. reference.

Amended by R.2001 d.42, effective December 27, 2000.

See: 32 N.J.R. 3615(a), 33 N.J.R. 564(a).

In (a)3, changed N.J.A.C. reference.

Public Notice: WFNJ/GA Rate in Residential Health Care Facilities.

See: 33 N.J.R. 2217(a).

Administrative change.

See: 34 N.J.R. 1749(a).

Administrative change.

See: 35 N.J.R. 1669(b).

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

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

In (a)3, amended N.J.A.C. reference.

Administrative change.  
 See: 36 N.J.R. 2481(a).  
 Administrative change.  
 See: 37 N.J.R. 2020(a).  
 Administrative change.  
 See: 39 N.J.R. 781(a).  
 Administrative change.  
 See: 40 N.J.R. 4818(a).  
 Administrative change.  
 See: 41 N.J.R. 2014(a).

**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 except as noted in (a)1i below (see N.J.A.C. 10:90-7.8 regarding agreement to repay provisions); 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.

i. RSDI, Railroad Retirement, Worker's Compensation, Veteran's Administration benefits, and temporary disability benefits are exempted by law from the repayment process. However, lump sum payments from these sources are subject to the lump sum regulations in (c) through (e) below.

2. SSI payments shall not be subject to lump sum repayment rules for WFNJ/TANF recipients (see (a)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. 10:90-14.5.

(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 pur-

chase 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 (for either a WFNJ/TANF or WFNJ/GA case) 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

<u>Number in Eligible Unit</u>	<u>200% of WFNJ/TANF Payment Level</u>
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; or

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

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

In (d), inserted "(for either a WFNJ/TANF or WFNJ/GA case)" following "income".

Amended by R.2003 d.226, effective June 16, 2003.  
See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).

In (a), rewrote 1 and added i.

**Case Notes**

Initial Decision (2008 N.J. AGEN LEXIS 180) adopted as modified, which found that child support payments could not be considered as "lump sums" for which the agency could seek repayment of Work First New Jersey/Temporary Assistance for Needy Families cash assistance under N.J.A.C. 10:90-3.18, since "lump sums" included such items as lottery winnings and personal injury awards; to include regularly recurring child support payments in the definition would violate important public policy considerations, namely the best interests of the child. R.F. v. Union County Div. of Social Services, OAL Dkt. No. HPW 1331-08, 2008 N.J. AGEN LEXIS 1044, Final Decision (July 24, 2008).

**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. The following sources of income shall be exempt:

1. Up to the first \$100.00 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;

i. This income exemption applies to children who are full-time students up to the age of 18, or up to the age of 19 if they are expected to complete an educational program before reaching age 19; and children up to the age of 21, if they are enrolled in a special education program (see N.J.A.C. 10:90-2.7);

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;

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

12. Kinship Subsidy Program payments;

13. Individual Development Accounts including matching contributions and interest;

14. Supplemental Living Support (SLS) Program payments made to WFNJ TANF/GA families/individuals who have been determined to be exempt from the 60-month lifetime limit on assistance; and

15. The following funds are considered as exempt income and are also identified as exempt resources designated for special purposes at N.J.A.C. 10:90-3.20(a)14:

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 (a)14ix(1) through (19) 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 (42 U.S.C. §§ 3001 et seq.);

(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;

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

(19) Certain payments made by the Department of Veterans Affairs to the natural children of female Vietnam veterans who served in the Republic of Vietnam from February 28, 1961 through May 7, 1975.

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

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

Added (a)8i and (a)12.

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

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

In (a), substituted "WFNJ/TANF/GA" for "WFNJ/TANF/GA only" in 10, added new 12 through 14 and recodified former 12 as 15.

Amended by R.2004 d.292, effective August 2, 2004.

See: 36 N.J.R. 1695(a), 36 N.J.R. 3545(a).

In (a), rewrote 10 and added 19.

Amended by R.2009 d.135, effective April 20, 2009.

See: 40 N.J.R. 5501(a), 41 N.J.R. 1861(a).

In (a)1, substituted "\$100.00" for "\$50.00".

**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;

ii. In addition to the above resources, moneys, matching contributions and interest on funds which are held in separate approved Individual Development Accounts are totally exempt. Funds which are held in approved Individual Development Accounts shall not be considered available for the assistance unit's use for emergency assistance purposes. The funds in these accounts are controlled by other entities and must be designated for one of the following purposes:

- (1) Purchase of a home;
- (2) Educational/training expenses;
- (3) Purchase of a motor vehicle; or
- (4) Purchase of a business.

iii. Moneys identified at (a)3 and 3i above are exempt in determining eligibility for WFNJ. However, in the event that a WFNJ assistance unit is in need of emergency assistance, such funds may be considered

available for the assistance unit's use to meet the emergency need prior to the issuance of emergency assistance;

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 in the Kelley's Blue Book internet website [www.kbb.com](http://www.kbb.com). 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 on the website, 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 Kelley Blue Book internet website 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 who resides in the household;

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, unless such assistance unit member was a recipient of General Assistance prior to July 1, 1997 and the exemption at (a)12iii below applies;

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.

iii. Prepaid irrevocably assigned funeral/burial arrangements, as noted in (a)12iii(1) through (3) below, for WFNJ/GA recipients who were General Assistance recipients and had made such arrangements prior to July 1, 1997;

(1) Prepaid irrevocable funeral/burial insurance policies;

(2) Prepaid irrevocable funeral/burial annuity policies;

(3) Prepaid irrevocable funeral/burial trust funds;

13. Life insurance policies;

14. Resources designated for special purposes 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 (a)14ix(1) through (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 (42 U.S.C. §§ 3001 et seq.);

(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.

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

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

In (a)12, added an exception at the end of the first paragraph, and added iii.

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

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

In (a), rewrote 3 and 4.

**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 adult members 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 adult individual responsible for the overpayment, the overpaid adult members of the eligible assistance unit, the adult individual members of the eligible assistance unit and any eligible assistance unit of which an adult 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 adult 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 the adult members of 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 adult 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 the adult members of that unit.

10. In all other circumstances, the priority of recovery of overpayments shall be: the overpaid adult members of the eligible unit; any eligible unit of which an adult member of the overpaid eligible unit subsequently becomes a member;

or any adult 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 adult members of the assistance unit do 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) shall 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 adult recipient; or
- iii. Execute a recovery agreement from a current adult 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.

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

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

Inserted references to adults throughout.

#### Case Notes

Initial Decision (2008 N.J. AGEN LEXIS 180) adopted as modified, which found that the agency could not recoup 2003 cash assistance paid to petitioner under the Work First New Jersey/Temporary Assistance for Needy Families under N.J.A.C. 10:90-3.21 where the retained amount did not represent child support arrearages but rather 2007 then-current weekly support payments. *R.F. v. Union County Div. of Social Services*, OAL Dkt. No. HPW 1331-08, 2008 N.J. AGEN LEXIS 1044, Final Decision (July 24, 2008).

Initial Decision (2006 N.J. AGEN LEXIS 351) adopted, which found that when agency sought to recover overpayment of Temporary Assistance for Needy Families, Food Stamp allotment, and Emergency Assistance pursuant to N.J.A.C. 10:90-3.21 and N.J.A.C. 10:87-11.20, respondent could not claim equitable estoppel against a government entity in the same manner as against a private individual; furthermore, respondent did not have "clean hands" in that she intentionally failed to report earned income. *Burlington County Bd. of Social Services v. T.B.*, OAL Dkt. No. HPW 951-05, Final Decision (May 11, 2006).

#### 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 (a)2i below.

i. The eligibility of each WFNJ/GA case may be reviewed at least once each calendar month. The Form WFNJ/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 WFNJ/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.

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

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

#### 10:90-3.23 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 shall 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; or a person authorized to receive benefits in accordance with the parent-minor provisions at N.J.A.C. 10:90-2.17.

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 unrestrictive 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 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.

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

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

In (d), added a reference to certain persons authorized under N.J.A.C. 10:90-2.17.

## SUBCHAPTER 4. WFNJ WORK REQUIREMENTS

### 10:90-4.1 General work requirement provisions

(a) Each WFNJ adult recipient, teen parent, and 16 through 18 year old individual not attending school on a full time basis, 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. WFNJ/GA recipients are required to participate in a work activity for up to 30 hours per week.

1. Each WFNJ TANF/GA 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.

2. Adult WFNJ recipients, teen parents, and 16 through 18 year old individuals that are not attending school on a full time basis, unless deferred, shall be required to comply with all aspects of the cooperation and participation provisions of the WFNJ work requirement as stipulated in this section, unless good cause exists, which shall include, but not be limited to: keeping all scheduled appointments timely; giving reasonable notice and explanation of inability to keep an appointment; cooperating in the development and completion of an individual responsibility plan (IRP); complying with the terms and conditions of the IRP; contacting the child care entity to arrange appropriate child care for WFNJ activity participation, as appropriate; and participating in a WFNJ work activity(ies) as assigned.

i. A WFNJ case comprised of refugees shall be subject to WFNJ work requirements. Appropriate work activities are provided through refugee resettlement agencies (see N.J.A.C. 10:90-10).

3. WFNJ agencies and other agencies contracted to provide services shall be required to meet the needs of WFNJ participants with disabilities.

i. Reasonable accommodations to allow participation by recipients with disabilities may include specialized transportation and tailored, appropriate work activities that meet the physical constraints and social and employability needs of such individuals.

(b) WFNJ/GA single adults or couples without dependent children, who are receiving food stamps, not deferred and are registered for work and 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 who are not receiving food stamps and are not registered for work and not participating in the FSETP shall register for work with the New Jersey One-Stop Career Center (NJOSCC) and shall participate in a NJOSCC work activity, unless deferred.

(c) Upon application, determination or redetermination of eligibility for WFNJ benefits, all adult WFNJ recipients, unless deferred, shall be required to register for work with the NJOSCC.

1. For WFNJ/GA recipients in nonconsolidated municipalities, NJOSCC shall place WFNJ/GA single adults and couples without dependent children in an approved activity, monitor compliance, and notify the municipal agency when the recipient fails to comply with the activity.