

iii. An alien who attains citizenship may continue to receive benefits for a lifetime total of 60 cumulative months from April 2, 1997 forward or the effective date of eligibility for WFNJ/GA, if later than April 2, 1997. The total months of eligibility include any time the individual was receiving WFNJ benefits prior to becoming a citizen.

iv. An alien who meets the requirements for residency and citizenship on or after August 22, 1996, but does

not initiate the naturalization process shall not be eligible to receive benefits.

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

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

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

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

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

(d) In determining the number of months for which an adult recipient has received cash assistance, the months an individual spent in sanction status shall not count towards the 60 cumulative month lifetime limit.

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)3iii, added last sentence and language regarding effective date of eligibility; added (b)1; and added (d).

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

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

1. Over 60 years of age;

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

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

ent/caretaker relative to maintain his or her basic level of functioning.

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

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

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

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

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

4. Chronically unemployable as defined by the provisions below:

i. A chronically unemployable adult cannot be identified until at least 36 months have been spent in the WFNJ program and the adult has registered with Employment Services and exhibits a limited and inconsistent history of successful gainful employment or successful participation in work activities despite good

faith efforts which have been documented. In addition, the adult has exhibited multiple personal, social or psychological factors which indicate that the person is unlikely to ever get and/or keep a job in the foreseeable future.

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

- (1) A history of chronic substance abuse/early onset;
- (2) A high incidence of crises and traumas, both physical and/or emotional, as well as mental health problems, such as depression, over the person's lifetime; and/or
- (3) Borderline mental retardation or severe learning disability.

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

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

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

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)4iii, substituted "any one of the problem areas noted above" for "significant physical, emotional, or other disabilities."

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

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

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

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

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

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

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

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

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

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

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

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

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

10:90-2.6 Domestic violence

(a) Certain WFNJ program requirements shall not apply to those recipients who have been screened and identified via an affidavit as victims of domestic violence, rape or incest. For purposes of WFNJ/TANF, at no time shall documentation be sought from the perpetrator of domestic violence, rape or incest. However, corroborative evidence, if available and offered by the victim, may be accepted by the county/municipal agency. Requirements shall not apply in those cases where compliance with such requirements would make it more difficult for a recipient to escape domestic violence or where it would unfairly penalize the recipient who is or has been victimized by any such violence, or who is at risk of further domestic violence. These recipients are also to be referred to supportive services by the WFNJ worker, as appropriate. The program requirements which shall not apply include, but are not limited to, the following:

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

(b) Child support cooperation requirements shall not apply when a good cause determination has been made by the WFNJ/IV-D agency worker in accordance with N.J.A.C. 10:90-16.5.

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 second and third sentences; deleted (a)3; recodified 4, 5 and 6 to 3, 4, and 5; and added (b).

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

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

1. An eligible assistance unit under WFNJ/TANF shall be comprised of those individuals who are living together and functioning as one economic unit and whose relationship is based upon a blood and/or legal relationship. (A legal relationship is one that is created through marriage, adoption or legal guardianship procedures.) The eligible

WFNJ/TANF assistance unit includes the parent(s), parent person(s) or legal guardian (see (a)3 below) and his or her children up to the age of 18, or up to the age of 19 if they are full-time students in a secondary school, or in the equivalent level of vocational or technical training, and are reasonably expected to complete the program before reaching age 19. Children up to the age of 21 are also eligible for WFNJ/TANF if they are enrolled in a special education program.

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

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

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

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

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

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

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

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

iv. A legal guardian, according to N.J.S.A. 9:3-38, refers to a person who has "the right to exercise continuing control over the person or property or both of a child which includes any specific right of control over an aspect of the child's upbringing, pursuant to a court order."

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

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

i. The applicant/recipient;

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

iii. The person with whom the applicant/recipient lives as a couple (that is, two individuals who are viewed by the community as a couple regardless of their sexual orientation) unless such person is receiving SSI or public assistance through the WFNJ/TANF program component.

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, added second sentence and rewrote the third sentence; added "or legal guardian(s)" to (a)3; added language to (b)1 regarding an exception; added (a)3iv; and rewrote (b)1iii.

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

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

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

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

3. Illegal aliens;

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

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

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

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

7. A person who has legal custody of a child(ren) but who is unable to prove a legal and/or blood relationship with such child(ren);

i. According to N.J.S.A. 9:3-38, legal custody is defined as the "general right to exercise continuing control over the person of a child derived from court order or otherwise."

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

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

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

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

(2) During the first 60 days after successful completion of the drug treatment program or at the time of application or case redetermination, it must be determined, via testing by an entity designated by DFD, that the person is free of any non-prescribed controlled substance. If the person is determined not to be free of any controlled substance during, or at the conclusion of, the 60 day period, the person's eligibility for benefits shall be terminated immediately.