

(b) Eligible noncitizens may receive New Jersey State Food Stamp Program benefits until they meet the minimum residency requirements to apply for citizenship; for example, they must have resided continuously within the United States, after being lawfully admitted for permanent residence, for at least three years immediately preceding the date of filing a petition for naturalization if they are married to a United States citizen or, if not, they must have resided continuously within the United States, after being lawfully admitted for permanent residence, for at least five years immediately preceding the date of filing a petition for naturalization, or a longer period only if required by INS rules.

(c) An individual who is required to apply for United States citizenship, but who fails to provide the county agency with documentation which verifies that he or she has made timely application for citizenship, shall be rendered ineligible for the New Jersey State Food Stamp Program.

(d) An individual who applies for United States citizenship, but who subsequently is determined by INS to be inappropriate for such citizenship (with the exception of noncitizens cited in (a)1 above), shall be rendered ineligible for the New Jersey State Food Stamp Program.

10:87-13.5 Calculating eligibility and level of benefit

(a) For the purpose of determining the eligibility and level of benefit for a noncitizen who is eligible for the New Jersey State Food Stamp Program, the county agency shall perform the following:

1. If the noncitizen is eligible for the New Jersey State Food Stamp Program as a one-person food stamp household, then eligibility and level of benefit shall be calculated consistent with the manner in which a one-person household is calculated in the Federal Food Stamp Program (N.J.A.C. 10:87-1 through 12).

2. If the noncitizen is eligible for the New Jersey State Food Stamp Program as a member of a household receiving benefits under the Federal Food Stamp Program, then eligibility and level of benefit shall be determined by including the noncitizen in the household receiving benefits under the Federal Food Stamp Program (N.J.A.C. 10:87-1 through 12).

- i. Any income, resources, and expenses of the noncitizen shall be included in determining the eligibility and level of benefit for the entire food stamp household. (The county agency shall not apply N.J.A.C. 10:87-7.14(c) as it pertains to the deeming of income and expenses.)

(b) If a noncitizen is ineligible for both the Federal and New Jersey State Food Stamp Programs, that individual shall be treated as an excluded household member (see N.J.A.C. 10:87-2.3(c)) in any household with whom he or she resides.

10:87-13.6 Treatment of benefits under New Jersey State Food Stamp Program

(a) Benefits issued under the New Jersey State Food Stamp Program shall be treated as obligations issued by the State of New Jersey.

(b) Any benefits which are recovered by the county agency through claims collection from recipients of benefits of the New Jersey State Food Stamp Program shall be remitted in their entirety to the New Jersey Division of Family Development.

1. Recoveries made from households that received only Federal Food Stamp benefits will be credited solely to the Federal program.

2. Recoveries made for households that received both Federal and State Food Stamp Program benefits will be credited to the Federal and State programs on a pro rata basis.

3. Recoveries made from households that received only New Jersey State Food Stamp Program benefits will be credited to the New Jersey State Food Stamp Program.

APPENDIX A

STATE FISCAL MANAGEMENT

Table of Contents

Section A—Technical requirements and specifications

1. Fiscal terms
2. Fiscal records retention
3. Processing returned coupon books
4. Filing and locating negotiated ATPs
5. Altered ATP cards
6. Reimbursement for transactions processed
7. Billing for coupon shortages, agency errors and expired ATPs
8. Validation of monthly Food Stamp Program documents
9. Coupon amount discrepancies

Section B—Postal inspection service

Section C—Data processing services

APPENDIX A—FISCAL MANAGEMENT

SECTION A

Technical requirements and specifications

The Division of Economic Assistance is responsible for designing, implementing and monitoring fiscal management procedures which ensure the security and control of Authorizations to Participate (ATPs) and Food Coupons.

The Bureau of Business Services/Food Stamp Program Fiscal Office (BBS/FSPFO) operating requirements in Appendix A are unique to the State of New Jersey Food Stamp Program fiscal administration. CWAs are encouraged to submit suggestions to improve this Appendix to:

Supervisor
Food Stamp Program Fiscal Office
Bureau of Business Services
Division of Economic Assistance—CN 716
Trenton, N.J. 08625

1. Terms applicable to fiscal operations and their definitions are as follows:

(A) Coupon Issuers (CIs): FSP agents (Bank & Non-bank) that participate in the issuance of food coupons in return for ATP cards.

(B) Current month ATP: Negotiated ATP cards bearing an issuance period that coincide with the current transaction period being reconciled.

(C) Current series coupons and books: March 1975 to the present time. Coupon denominations: \$1.00, \$5.00 and \$10.00. Book Denominations: \$2.00, \$7.00, \$10.00, \$40.00, \$50.00, \$65.00.

(D) Cutoff dates: The dates by which all Family Assistance Management Information System (FAM-IS) A and B forms must be submitted to the Office of Telecommunications and Information Services (OTIS) Data Center to be included in the current updating operation.

(E) Expired: A negotiated ATP card that has been redeemed after the expiration date.

(F) Improperly manufactured: Food coupon books that contain printing, cutting or assembling errors.

(G) Locator number: A computer generated number, consisting of 10 digits sequentially assigned to an ATP card, preliminary to the FSP reconciliation operation.

(H) Machine issue: An ATP card printed by computer during a monthly or daily machine issuance cycle.

(I) Manual issue: An ATP prepared manually by the CWA when expedited machine issuance cannot be completed within the prescribed time frame.

(J) Master file: The file maintained at the OTIS Data Center which contains information relating to all NPA/PA cases which are in active status in the computer system. This file forms the basis for machine issuance of ATP cards.

(K) Matched: An ATP card bearing a number which coincides with corresponding data in the Work Record Card File or the Outstanding ATP Card File.

(L) Mutilated: Food coupon books that were properly manufactured but, for a variety of reasons, have become unusable.

(M) O/S File: The information file maintained at the OTIS Data Center that contains all data relating to ATP cards that have not been negotiated for up to six months.

(N) Replacement: An ATP card issued in place of one previously issued (machine or manual) and bearing the same validity period as the original.

(O) Sort: Sequencing of information on computer printouts by the computer program.

(P) Unmatched: An ATP card bearing a number which does not coincide with the corresponding data in the Work Record Card File or the Outstanding ATP Card File.

(Q) Unmatched cancelled: An ATP card bearing a number which was previously cancelled through replacement issue (for example, lost, stolen, mutilated, and so forth).

(R) Work record: The record maintained at the OTIS Data Center which contains information relating to the current month issuance. The updated information contained in the FAMIS A and B forms is used during the reconciliation of ATPs returned by CIs. All data that clears the various edit programs will become integrated into the FAMIS Master File, with the exception of replacement data.

2. Retention of fiscal records: Retention regulations for FSP fiscal records at the CWA are divided into two categories:

(A) Category I: Computer operations source documents: FAMIS A and B source documents used for terminal input are to be retained for a period of three months after terminal entry. Copies of both are to be filed in the case record and must be retained in accordance with the case record retention schedule.

(B) Category II: Computer printouts and ATP cards: All originals of printout documents shall be retained for three years. Authorization to Participate (ATP) cards returned following the reconciliation cycle shall be retained by the CWA for six years from the origination month of each record. The six year retention period is not applicable to ATP cards cancelled by the CWA and never transacted. Destruction of the ATP shall be witnessed by two persons. The CWA is required to maintain a list of the destroyed ATPs for audit purposes.

(C) Approval and destruction: Approval for destruction of documents must be received from the Bureau of Archives and History by completing Form ED-6. Actual destruction through incineration or shredding is mandatory.

NOTE: Category II documents listed above shall not be destroyed if the CWA has been instructed in writing by DPW (or the USDA/FNS) to retain them.

3. Processing of returned books: Upon receipt of an improperly manufactured (see 1(F) above) or mutilated (see 1(L) above) coupon book(s) from a participant, the CWA Fiscal or Food Stamp Supervisor, with the authorization of the CWA Director, shall:

(A) Examine returned books containing printing errors. Ascertain that the proper number of coupons are in the book and there is an actual printing error.

(B) Books with alleged missing coupons should be examined as follows:

(1) Count the stubs at the top, bottom, and middle of the book. Ensure that no portion of the stub of the

alleged missing coupon(s) is still in the book. Replacements are not to be issued if the stubs are still in the book, unless authorized by the FSPFO or Food Stamp Supervisor.

(2) Examine the staples (\$65.00 book only) and their position on the book to determine if there are loose or bent staples, indications that the book has been taken apart and restapled, examine the glued end of the book to determine if any evidence of tampering exists, or other indications exist that might reveal that the book contained the correct number of coupons at the time of issuance.

(3) Examine the staples (applicable only to \$65.00 books) and their position on the book. Do not bend or remove the staples while examining the books. The condition and presence or absence of the staples are factors which must be considered by the FSPFO or Food Stamp Supervisor when making a determination.

(4) The condition and presence of glue or staples (\$65.00 book only) are factors which must be considered by the FSPFO or Food Stamp Supervisor when making a determination.



See: 17 N.J.R. 1793(a), 17 N.J.R. 2273(b).
 Emergency Amendment and Concurrent Proposal, R.1986 d.297, effective June 30, 1986 (operative July 1, 1986).
 See: 18 N.J.R. 1490(a).
 Maximum Allowable Income raised.
 Readopted Concurrent Proposal R.1986 d.395, effective October 6, 1986.
 See: 18 N.J.R. 1490(a), 18 N.J.R. 2015(c).
 Emergency Amendment, R.1987 d.304, effective June 25, 1987 (operative July 1, 1987, expires August 24, 1987).
 See: 19 N.J.R. 1331(a).
 Adoption of Concurrent Proposal as R.1987 d.375, effective August 24, 1987.
 See: 19 N.J.R. 1331(a), 19 N.J.R. 1738(b).
 Provisions of emergency amendment R.1987 d.304 readopted without change.
 Emergency amendment, R.1988 d.512, effective September 30, 1988 (operative October 1, 1988, expires November 29, 1988).
 See: 20 N.J.R. 2592(a).
 Adoption of concurrent proposal R.1989 d.1, effective November 29, 1988.
 See: 20 N.J.R. 2592(a), 21 N.J.R. 21(a).
 Provisions of emergency rule R.1988 d.512 readopted without change.
 Emergency amendment, R.1989 d.533, effective September 22, 1989 (expires November 21, 1989).
 See: 21 N.J.R. 3316(a).
 Maximum allowable income raised to conform to Federal requirements.
 Adopted concurrent proposal, R.1989 d.606, effective November 21, 1989.
 See: 21 N.J.R. 3316(a), 21 N.J.R. 3918(b).
 Provisions of emergency amendment R.1989 d.533 readopted without change.
 Amended by R.1990 d.437, effective September 4, 1990.
 See: 22 N.J.R. 1670(a), 22 N.J.R. 2715(a).
 Deleted (a) and Table VII, replacing with text explaining annual amounts and publication schedule.
 Public Notice: Maximum allowable income revised to conform to Federal requirements.
 See: 24 N.J.R. 3769(b).
 Public Notice: Maximum allowable income, effective October 1, 1993.
 See: 25 N.J.R. 5365(a).
 Public Notice: Maximum allowable income, effective October 1, 1994.
 See: 26 N.J.R. 3901(a).
 Public Notice: 165 percent of poverty level amounts, effective October 1, 1995.
 See: 27 N.J.R. 4919(b).
 Public Notice: 165 percent of poverty level amounts, effective October 1, 1996.
 See: 28 N.J.R. 4677(b).

Case Notes

Adoption of amendments to regulation cited as example of swift rulemaking by Division of Public Welfare. *Eherenstorfer v. Div. of Public Welfare*, 196 N.J.Super. 405, 483 A.2d 212 (App.Div.1984).

SUBCHAPTER 13. NEW JERSEY STATE FOOD STAMP PROGRAM

Authority

N.J.S.A. 30:4B-2; Federal H.R. 1871 (P.L. 105-18, June 12, 1997), the 1997 Emergency Supplemental Appropriations Act for Recovery from Natural Disasters, and for Overseas Peacekeeping Efforts, including those in Bosnia; and the New Jersey State Food Stamp Program authorized by Governor Christine Todd Whitman.

Source and Effective Date

Emergency New Rules, R.1997 d.402, effective August 29, 1997 (operative September 1, 1997; to expire October 28, 1997).
 See: 29 N.J.R. 4191(a).

10:87-13.1 Purpose

(a) The New Jersey State Food Stamp Program provides nutritional assistance to those categories of noncitizens who were rendered ineligible for the Federal Food Stamp Program by Section 402 of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996 (P.L. 104-193).

(b) The New Jersey State Food Stamp Program employs all Federal Food Stamp Program rules which are in effect in New Jersey under this chapter as amended by both Federal statute and policy instruction issued by the United States Department of Agriculture. The one exception is that the rule at N.J.A.C. 10:87-3.8 as amended by Federal statute, which defines the categories of noncitizens who are eligible for the Federal Food Stamp Program, are not applicable.

10:87-13.2 Eligibility

(a) Provided that all other Federal Food Stamp Program eligibility requirements are met, only the following noncitizens who are ineligible for the Federal Food Stamp Program due to noncitizens eligibility criteria shall be eligible for participation in the New Jersey State Food Stamp Program:

1. Noncitizens under the age of 18;
2. Noncitizens age 65 or over;
3. Noncitizens who are receiving SSI benefits;
4. Noncitizens who are mentally or physically incapacitated. In the event that such disability is claimed, but is not evident, then the following shall be accepted:
 - i. Current receipt of temporary or permanent disability benefits issued by governmental or private sources, including Social Security disability payments;
 - ii. A statement from a physician or licensed or certified psychologist which substantiates the applicant's claim of disability. The statement shall be accepted by the county agency either in writing or by telephone; and
5. Noncitizens who are receiving Work First New Jersey GA benefits who are considered unemployable.

(b) To be eligible for the New Jersey State Food Stamp Program, the noncitizen's date of entry into the United States must be prior to August 22, 1996.

(c) To be eligible for the New Jersey State Food Stamp Program, the noncitizen shall meet one of the following categories:

1. A noncitizen lawfully admitted for permanent residence as an immigrant as defined in Sections 101(a)(15) and 101(a)(20) of the Immigration and Nationality Act. (However, a noncitizen lawfully admitted for permanent residence pursuant to Section 245A of the Immigration and Nationality Act must be eligible as specified in (c)8 and 9 below) (see N.J.A.C. 10:87-2.20(c) for verification);

2. A noncitizen who entered the United States prior to January 1, 1972, or some later date as required by law, and has continuously maintained residency in the United States since then, and is not ineligible for citizenship but is considered to be lawfully admitted for permanent residence as a result of an exercise of discretion by the Attorney General pursuant to Section 249 of the Immigration and Nationality Act (see N.J.A.C. 10:87-2.20(c) for verification);

3. A noncitizen qualified for conditional entry after March 31, 1980 because of persecution or fear of persecution on account of race, religion, or political opinion pursuant to Section 207 (formerly Section 203(a)(7)) of the Immigration and Nationality Act (see N.J.A.C. 10:87-2.20(c) for verification);

4. A noncitizen who qualifies for conditional entry prior to April 1, 1980 pursuant to former Section 203(a)(7) of the Immigration and Nationality Act (see N.J.A.C. 10:87-2.20(c) for verification);

5. A noncitizen granted asylum through an exercise of discretion by the Attorney General pursuant to Section 208 of the Immigration and Nationality Act;

6. A noncitizen lawfully present in the United States as a result of an exercise of discretion by the Attorney General for emergent reasons or reasons deemed strictly in the public interest pursuant to Section 212(d)(5) of the Immigration and Nationality Act, or as a result of a grant of parole by the Attorney General (see N.J.A.C. 10:87-2.20(c) for verification);

7. A noncitizen living within the United States from whom the Attorney General has withheld deportation pursuant to Section 243 or 241 of the Immigration and Nationality Act because of the judgment of the Attorney General that the noncitizen would otherwise be subject to persecution on account of race, religion, or political opinion (see N.J.A.C. 10:87-2.20(c) for verification);

8. A noncitizen who is defined as aged, blind or disabled in accordance with Section 1614(a)(1) of the Social Security Act and is considered to be lawfully admitted for temporary residence pursuant to Section 245A(b)(1) of the Immigration and Nationality Act;

9. A noncitizen who is granted lawful temporary resident status pursuant to Section 245A of the Immigration and Nationality Act at least five years prior to applying for food stamps and who subsequently gained lawful permanent resident status pursuant to Section 245A of the Immigration and Nationality Act; or

10. A noncitizen who is, as of June 1, 1987 or thereafter, a special agricultural worker (SAW) and lawfully admitted for temporary residence in accordance with Section 210(A) of the Immigration and Nationality Act.

(d) When a noncitizen described at (c)9 above acquires permanent resident status, the family members of that noncitizen acquire permanent resident status and can be included in the noncitizen's household for food stamp purposes. This provision conforms with Section 301(d) of P.L. 100-649.

10:87-13.3 Ineligible noncitizens

(a) Noncitizens other than those described in this subchapter are not eligible to participate in the New Jersey State Food Stamp Program as a member of any household. Among those excluded are noncitizen visitors, tourists, diplomats, and students, who enter the United States temporarily with no intention of abandoning their residence in a foreign country.

(b) If the household is comprised of minors (who are eligible for participation in the New Jersey State Food Stamp Program) and an adult member who is ineligible for the New Jersey State Food Stamp Program because of his or her noncitizen status, such adult may make application on behalf of the remaining members of the household. However, if there is another adult in the household who is eligible for benefits, that person shall make application.

10:87-13.4 Application for citizenship

(a) An individual who is found to be eligible for the New Jersey State Food Stamp Program shall be required to apply for United States citizenship within 60 days of the date that the noncitizen is certified as eligible for the New Jersey State Food Stamp Program or within 60 days of the date the noncitizen is eligible to apply for citizenship, whichever is later.

1. An exception to the citizenship application requirement shall be granted to any person who is unable, because of "medically determinable" physical or mental impairment or combination of impairments which has lasted or is expected to last at least 12 months, to demonstrate an understanding of the English language, or who is unable for any of the same reasons to demonstrate a knowledge and understanding of the fundamentals of the history, and of the principles and form of government of the United States.

2. The term "medically determinable" means an impairment that results from anatomical, physiological, or psychological abnormalities which can be shown by medically acceptable clinical and laboratory diagnostic techniques to have resulted in functioning so impaired as to render an individual unable to demonstrate an understanding of the English language, or that renders the individual unable to fulfill the requirements for English proficiency, even with reasonable modifications to the methods of determining English proficiency. The definition of "medically determinable" is the same with regards to the exception from the civics knowledge requirement. Loss of cognitive abilities based on the direct effect of the illegal use of drugs is not covered as a disability.