

3. Further reduce the remaining income by the appropriate amount from the Standard of Need (N.J.A.C. 10:82-1.1A) for the parent(s) and any other individuals residing in the household who are or could be claimed by the parent(s) as dependents for Federal personal income tax liability and who are not recipients of AFDC-C, -F or -N.

4. The remaining income shall be further reduced by amounts paid by the parent(s) to individuals not living in the household who are or could be claimed by him or her as dependents for purposes of determining his or her Federal personal income tax liability.

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

6. All income remaining shall be counted as unearned income available to the eligible unit and shall be counted toward total income (N.J.A.C. 10:82-1.2) and in the determination of grant amount.

i. In the event the eligible family unit is determined financially ineligible for AFDC cash assistance due to the inclusion of such deemed income, Medicaid eligibility for the dependent child(ren) of the adolescent parent shall be determined in accordance with N.J.A.C. 10:81-8.22(a)3.

(c) If the adolescent parent does not live in the same home as his or her parents, the legally responsible relative provisions of N.J.A.C. 10:82-3.8 apply, and Schedule IV-B of N.J.A.C. 10:82-3.11(d) shall apply.

New Rule as emergency rule, R.1984 d.463, effective September 28, 1984 (operative October 1, 1984).

See: 16 N.J.R. 2837(a).

Readopted, R.1984 d.568, effective November 28, 1984 (amendment effective December 16, 1984).

See: 16 N.J.R. 2837(a), 16 N.J.R. 3442(a).

Previously filed as emergency rule R.1984 d.463.

Section substantially amended.

Amended by R.1986 d.115, effective April 7, 1986 (operative May 1, 1986).

See: 18 N.J.R. 20(b), 18 N.J.R. 689(b).

Added text in (c) "and Schedule IV-B of N.J.A.C. 10:82-3.11(d) shall apply."

Amended by R.1989 d.497, effective September 18, 1989.

See: 21 N.J.R. 1811(a), 21 N.J.R. 3014(a).

Definition of adolescent parent conformed to the Federal Deficit Reduction Act of 1984.

Amended by R.1992 d.261, effective June 15, 1992 (operative July 1, 1992).

See: 24 N.J.R. 1194(a), 24 N.J.R. 2258(a).

In (b)1, revised reduction amount of gross earned income from "\$75.00" to "\$90.00." In (b)3: added reference to Standard of Need and N-segment. In (b)6, revised N.J.A.C. citation.

Amended by R.1993 d.566, effective November 15, 1993.

See: 25 N.J.R. 2819(a), 25 N.J.R. 5168(a).

Amended by R.1994 d.430, effective August 15, 1994.

See: 26 N.J.R. 1584(a), 26 N.J.R. 3483(a).

Administrative Correction.

See: 26 N.J.R. 4765(a).

#### Case Notes

Public assistance allowance standard used to determine maternal grandmother's deemed income. *M.R. v. Mercer County Welfare Agency*, 93 N.J.A.R.2d (DEA) 5.

## SUBCHAPTER 4. INCOME

### 10:82-4.1 General provisions

(a) Income must be in cash or in some other form readily available to meet the needs of the eligible unit. Immediate need demonstrated by an otherwise eligible unit will be met by assistance payments until other resources are in fact actually available.

(b) Income may be earned, unearned or in the form of contributions (see N.J.A.C. 10:82-4.2, 4.10, and 4.13).

(c) Earned income shall not include the amount of Earned Income Credit payment which an individual receives.

Amended on an emergency basis, R.1981 d.396, effective September 30, 1981 (operative October 1, 1981), exp. November 30, 1981.

See: 13 N.J.R. 763(a).

Readopted, R.1981 d.519, effective December 31, 1981.

See: 13 N.J.R. 763(a), 14 N.J.R. 102(d).

(c) through (c)3 added.

Amended by R.1982 d.443, effective December 20, 1982.

See: 14 N.J.R. 952(a), 14 N.J.R. 1459(b).

Revised language concerning Earned Income Tax Credits to reflect new Federal rules.

Amended as emergency rule, R.1984 d.463, effective September 28, 1984 (operative October 1, 1984).

See: 16 N.J.R. 2837(a).

Section substantially amended.

Readopted, R.1984 d.568, effective November 28, 1984.

See: 16 N.J.R. 2837(a), 16 N.J.R. 3442(a).

Was previously filed as emergency rule.

Amended by R.1991 d.7, effective January 7, 1991.

See: 22 N.J.R. 2445(a), 23 N.J.R. 93(a).

In (c): added "not" to describe that earned income shall not include the amount of Earned Income Credit payment.

Deleted (c)1-3 which outlined process for including amount of payment.

#### Case Notes

Income must be readily available to meet needs of eligible unit. *Boyle v. Riti*, 175 N.J.Super. 158, 165, 417 A.2d 1091 (App.Div.1980).

Parent's voluntary rental contribution constitutes household income. *Hudson County Division of Social Services v. R.M.*, 95 N.J.A.R.2d (DEA) 1.

Agency improperly included retroactive social security award to son of petitioner in determining eligibility for benefits. *M.T. v. Salem County Welfare Agency*, 94 N.J.A.R.2d (DEA) 28.

Initial eligibility for AFDC grant must be determined on all income available at any time during the month the application was received (Director's Final Decision) (cited as N.J.A.C. 10:82-2.11). In the *Matter of P.B.*, 8 N.J.A.R. 329 (1980).

Error in income calculation concerning earned income advance payments corrected by credit reduction due to weekly pay basis (citing

former regulation); benefits restored. Bergen Cty. Bd. of Social Services v. P.D., 4 N.J.A.R. 23 (1983).

#### 10:82-4.2 Definition of earned income

(a) Earned income refers to gross income earned by an individual through the receipt of wages, tips, salaries or commissions from activities in which he/she is engaged as an employee or from his/her self-employment. It includes earning over a period of time for which settlement is made in one payment, as in the sale of farm crops.

(b) When an individual receives shelter in return for performing work duties, the monetary value shall be determined from Schedule VI and included in the total amount of gross earned income. The amount of mandatory payroll deductions to be recognized shall be determined in relation to such total amount.

(c) When an individual is employed in a position where tipping is customary, a daily log or other acceptable documentation of tips received shall be used for income calculation. Tips income calculation shall not be based on estimated information as reported on W-2 forms.

Amended by R.1986 d.318, effective August 4, 1986.  
See: 18 N.J.R. 1056(a), 18 N.J.R. 15956(a).

(c) added.

#### 10:82-4.3 Earned income from self-employment

(a) With respect to self-employment, the term "earned income" means the total profit from a business enterprise (such as farming) resulting from a comparison of the gross receipts with the business expenses. Business expenses are those costs directly related to producing the goods or services and without which, the goods or services could not be produced. However, items such as depreciation, personal business and entertainment expenses, personal transportation, purchase of capital equipment, and payments on the principal of loans for capital assets or durable goods are not business expenses.

1. Persons who are self-employed shall be required to submit evidence of business receipts and expenditures as the basis for a sound estimate of earned income. A reliable, accurate accounting system or the method utilized in reporting to the Internal Revenue Service shall be acceptable for determining net income.

(b) In the case of an individual who is self-employed, it may be clearly evident that the expense of producing the income exceeds the income produced. Assistance shall not be granted or continued if such person persists in operating the business, since this in effect would be using public assistance to subsidize a failing business.

1. New business: A period of up to 24 months from the start of a new business will be considered adequate to demonstrate its potential for self-support. In situations where, in the judgment of the county welfare agency, additional time would enable the business to show a profit, the period may be extended up to 12 months.

2. Business already established: A business which is already established (that is, in operation for at least 36 months) and which shows only marginal profit, either constant or intermittent, will be considered for purposes of this manual to be failing if the profit, averaged over the preceding 12 months, is less than \$375.00 per month.

(c) An individual who is providing extensive personal services along with room and board accommodation to a noneligible individual shall be considered self-employed. An amount of \$125.00 shall be recognized as the business expense and cost of providing room, board and extensive personal services. Any income from this arrangement in excess of \$125.00 shall be recognized as earned income.

Amended by R.1982 d.443, effective December 20, 1982.

See: 14 N.J.R. 952(a), 14 N.J.R. 1459(b).

Clarified term "earned income" and specified what are business expenses.

Amended by R.1986 d.470, effective December 1, 1986.

See: 18 N.J.R. 928(a), 18 N.J.R. 2388(a).

Deleted text in (c) "adult other than a relative" and substituted "a noneligible individual"; also added "An amount of ... extensive personal services."

#### Case Notes

Existence of failing business; finding that benefits recipient not persisting in operating business but in process of terminating it; benefits continued. J.D. v. Monmouth Cty. Bd. of Social Services, 5 N.J.A.R. 199 (1979).

Support payment received for foster child under Youth Advocate Program is exempt from consideration as income in calculation of AFDC grant. Burlington Cty. Welfare Agency v. L.N., 4 N.J.A.R. 159 (1982).

#### 10:82-4.4 Disregard of earned income in AFDC-C and -F segments

(a) The CWA shall disregard from the earned income of each employed individual, the first \$90.00 of such earnings.

(b) The CWA shall disregard from the total earned income not already disregarded, the first \$30.00 and one-third of the remainder for each employed individual.

1. This disregard shall apply to the earned income of a person for a period of four consecutive months. Once this disregard has applied for a four consecutive month period, it shall not again be applied on behalf of that individual as long as he or she continues to receive AFDC-C, -F or -N. If after receiving this disregard for a four consecutive month period, the individual becomes ineligible for AFDC-C, -F or -N, this disregard shall not be applied to his or her income unless the individual has remained ineligible for AFDC for a period of 12 consecutive months.

2. The \$30.00 and one-third disregard is to be applied only when an amount of earned income remains, after application of the disregard in (a) above, to permit application of this disregard.

i. For any month in which any part of the \$30.00 and one-third disregard is applied, that month shall be counted as one of the four consecutive months of disregard.

3. Any month for which the individual loses the \$30.00 and one-third disregard because of the provision in (f) below shall be considered as one of the four consecutive months.