

(a)

DIVISION OF FAMILY DEVELOPMENT
Work First New Jersey/General Assistance
Clarification of Work First New Jersey Emergency
Assistance Availability

Proposed Amendment: N.J.A.C. 10:90-6.1

Authorized By: Carole Johnson, Commissioner, Department of Human Services.

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

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2019-067.

Submit comments by August 2, 2019, to:

Miguel Mendez, Administrative Practice Officer
 Division of Family Development
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 Email: Miguel.Mendez@dhs.state.nj.us

The agency proposal follows:

Summary

As the Department of Human Services is providing a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Public Law 1997, c. 38, the Work First New Jersey (WFNJ) Act, codified at N.J.S.A. 44:10-1 et seq., provides for Emergency Assistance (EA) for recipients of WFNJ and Supplemental Security Income (SSI) in emergent situations and authorizes the Commissioner to establish the standards for eligibility by regulation at N.J.S.A. 44:10-51. This rulemaking amends several regulations governing EA at N.J.A.C. 10:90-6.

Specifically, the proposed amendments at N.J.A.C. 10:90-6.1(c)3 are designed to ensure that EA is granted to meet the emergent housing and related needs of WFNJ and SSI recipients caused by circumstances beyond their control, as well as to provide applicants and recipients who were denied EA with specific justification for that denial. If EA is to be denied by a county/municipal agency (the Agency), and if the basis for such denial is not one that is explicitly stated in N.J.A.C. 10:90-6.1(c)3i through ix, then the Agency must consult with the Division prior to denying the EA benefit and must specifically detail in the adverse action notice what circumstances demonstrate an absence of good cause. N.J.A.C. 10:90-6.1(c)3 has been reorganized to make clear what circumstances constitute an absence of good cause. N.J.A.C. 10:90-6.1(c)3vi is proposed for deletion because it is overbroad and generally duplicative of N.J.A.C. 10:90-6.1(c)3. N.J.A.C. 10:90-6.1(c)3 provides a list of circumstances that demonstrate an absence of good cause for an applicant's homelessness. Several of those listed circumstances contemplate specific ways an adult applicant's or recipient's behavior can cause their eviction without good cause. While these provisions continue to prohibit the provision of EA services to persons whose behavior directly caused their eviction, they do so on the basis of specific policy considerations. N.J.A.C. 10:90-6.1(c)3vi could have been interpreted to prohibit the provision of EA services to a person whose behavior caused their own eviction, despite that person having good reason to engage in that behavior. For example, a person who was evicted for having an assistance animal in violation of a "no pets" policy.

Proposed new N.J.A.C. 10:90-6.1(c)4 clearly delineates and expands upon the good cause exceptions for homelessness, including situations where individuals become homeless due to their health and safety being imperiled.

The proposed amendments to recodified N.J.A.C. 10:90-6.1(c)7 make it clear that the cause of a Child Protection & Permanency (CP&P) family's homelessness is not to be considered when determining EA eligibility.

Existing N.J.A.C. 10:90-6.1(c)7 is proposed for deletion as the substance of the paragraph is relocated to proposed new subparagraph (c)4iv.

Social Impact

The proposed amendments will have a positive social impact on WFNJ EA applicants and recipients. The proposed amendments are designed to ensure that recipients with emergent needs are appropriately evaluated, and that the basis for decision making in these emergent cases is communicated specifically and clearly to an applicant or recipient. These proposed amendments may also expand access to EA by making it clear that EA may only be denied if it is clearly established by the specific and detailed facts of a case that good cause to grant EA is absent.

Economic Impact

The proposed amendments are likely to have a minimal economic impact on the State due to a small increase in the number of WFNJ EA recipients.

Federal Standards Statement

The proposed amendments are not subject to any Federal requirements or standards; therefore, a Federal standards analysis is not applicable to this rulemaking.

Jobs Impact

The proposed amendments will not result in the generation or loss of jobs.

Agriculture Industry Impact

The proposed amendments have no impact on the agriculture industry.

Regulatory Flexibility Statement

The proposed amendments have been reviewed with regard to the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendments impose no reporting, recordkeeping, or other compliance requirements on small businesses and, thus, a regulatory flexibility analysis is not required. The proposed amendments expand WFNJ/GA eligibility.

Housing Affordability Impact Analysis

The proposed amendments will not have an impact on the affordability of housing in New Jersey. It is highly unlikely that the proposed amendments would evoke a change in the average costs associated with housing because the proposed amendments expand access to WFNJ/GA.

Smart Growth Development Impact Analysis

The proposed amendments will not have an impact on smart growth. It is highly unlikely that the proposed amendments would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey because the proposed amendments expand access to WFNJ/GA.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Department of Human Services has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 6. EMERGENCY ASSISTANCE

10:90-6.1 Availability of emergency assistance

(a)-(b) (No change.)

(c) The county or municipal agency shall provide emergency assistance when there has been substantial loss of housing, food, clothing, or household furnishings or utilities by fire, flood, or other similar disaster, or an actual or imminent eviction from prior housing, and the assistance unit is in a state of homelessness or imminent homelessness due to circumstances beyond their control or the absence of a realistic capacity to plan in advance for substitute housing (see (c)1 below); and the county or municipal agency determines that the provision of shelter/housing and/or food and/or emergency clothing, and/or minimum essential house furnishings or utilities is necessary for health and safety.

1.-2. (No change.)

3. Emergency assistance shall not [be provided to a WFNJ applicant when an actual or imminent state of homelessness exists as a direct result

of the voluntary cessation of employment by the adult household member without good cause (as provided at N.J.A.C. 10:90-4.11). EA shall not be provided for a period of six months to the entire household in which the recipient adult member voluntarily quits employment without good cause while receiving emergency assistance (see N.J.A.C. 10:90-4.11(b) concerning a voluntary quit). Nor shall EA be provided to the entire household for a period of six months when an adult EA applicant or recipient has [caused his or her own homelessness], without good cause, [for reasons that may include, but are not limited to, (c)3i through ix below. The EA penalty shall not be imposed when it has been determined by a qualified professional that due to mental, cognitive or substance abuse impairments, the recipient lacked the functional capacity to avoid behaviors that contributed to his or her becoming homeless. Such recipients shall be required to follow through with the recommendations of the qualified professional to maintain EA eligibility] **become homeless for any of the following reasons, unless subject to an exception in (c)4 below.**

i. As a direct result of the voluntary cessation of employment by the adult household member without good cause (as provided in N.J.A.C. 10:90-4.11);

[i. For the purpose of making himself or herself eligible for EA, for example, refusing to accept subsidized housing;]

ii. Refusing to accept available subsidized housing, a housing choice voucher (Section 8), or other long-term/stable housing solution/program when offered;

[ii.] **iii. Eviction from public and/or subsidized housing for nonpayment of rent, when the applicant had the ability to pay;**

[iii.] **iv. Eviction from private, public, and/or subsidized housing because of criminal activity, except when the criminal activity was committed by an adult who is no longer part of the assistance unit or the criminal activity relates to the applicant's prior history and did not occur while living in the applicant's last place of permanent residence;**

Recodify existing iv. and v. as v. and vi. (No change in text.)

[vi. The adult applicant's or recipient's behavior directly caused the eviction;]

vii. (No change.)

[viii. Refusal to accept Section 8 housing, if offered; or]

[ix.] **viii. Failure to comply with the mandatory activities identified in the EA service plan[.]; or**

ix. Other circumstances clearly establishing an absence of good cause upon review and approval by the Division. Such circumstances shall be specifically detailed in the adverse action notice.

4. EA penalties shall not apply if there is good cause for an applicant's or recipient's homelessness. Good cause for an applicant's or recipient's homelessness shall be evidenced by any of the following conditions:

i. When it has been determined by a qualified professional that, due to a mental, cognitive, or substance use disorder, the applicants/recipients lacked the functional capacity to avoid behaviors that contributed to their state of homelessness. Such recipients shall be required to follow through with the recommendations of a qualified professional to maintain EA eligibility;

ii. When the applicant is experiencing homelessness, or faces imminent homelessness, and fails to participate in WFNJ work activities, or refuses to accept or maintain employment, for any of the good cause reasons in N.J.A.C. 10:90-4.11(a);

iii. When homelessness, or imminent homelessness, are the result of significant health or safety conditions at the applicant's most recent permanent residence, which has been documented and investigated by a health and safety organization;

iv. When there is an indication that an individual, or a parent and his or her children, have left their customary residence and the unit is in a state of homelessness due to imminent, or demonstrated, domestic violence or due to a household member's behavior that imperils the health and safety of the eligible unit. Temporary living arrangements during that period between the occurrence of the incidence of domestic violence and the application for EA do not negate the existence of a state of homelessness; or

v. When the applicant certifies that the applicant's funds for necessary expenses or expenses reasonable for living have been exhausted, including funds for heating, cooking, gas, electricity, food, medical, clothing, or other similar items.

Recodify existing 4. and 5. as 5. and 6. (No change in text.)

[6.] **7. In consultation with CP&P, EA shall be provided to a CP&P family, even if the family [caused its own homelessness,] has, without good cause, become homeless, provided that the family meets all other EA eligibility requirements.**

i. When EA is granted to a CP&P family [that caused its own homelessness], the CWA and CP&P shall establish communication to ensure coordination of the CP&P plan, the EA service plan, and the IRP.

(1)-(2) (No change.)

[7. Emergency assistance is likewise available in situations where there is an indication that an individual, or a parent and his or her children, have left their customary residence and the unit is in a state of homelessness due to imminent or demonstrated domestic violence which imperils the health and safety of the eligible unit.

i. Temporary living arrangements during the period between the occurrence of the incidence of domestic violence and the application for EA do not negate the existence of a state of homelessness.]

8. (No change.)

(d)-(e) (No change.)

LABOR AND WORKFORCE DEVELOPMENT

(a)

DIVISION OF WAGE AND HOUR COMPLIANCE

Public Works Contractor Registration

Proposed Amendments: N.J.A.C. 12:62-1.2 and 2.1

Authorized By: Robert Asaro-Angelo, Commissioner, Department of Labor and Workforce Development.

Authority: N.J.S.A. 34:11-56.57.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2019-069.

A public hearing on the proposed amendments will be held on the following date at the following location:

Tuesday, July 2, 2019

10:00 A.M. to 12:00 Noon

New Jersey Department of Labor and Workforce Development

John Fitch Plaza

13th Floor Auditorium

Trenton, New Jersey

Please call the Office of Legal and Regulatory Services at (609) 777-2960 if you wish to be included on the list of speakers.

Submit written comments by August 2, 2019, to:

David Fish, Executive Director

Legal and Regulatory Services

NJ Department of Labor and Workforce Development

PO Box 110-13th Floor

Trenton, New Jersey 08625-0110

david.fish@dol.nj.gov

The agency proposal follows:

Summary

The Department is proposing amendments to N.J.A.C. 12:62-1.2 and 2.1 in order to implement P.L. 2019, c. 21 (the Act), which requires that, as a condition to becoming registered with the Department of Labor and Workforce Development (Department) as a public works contractor under N.J.S.A. 34:11-56.48 et seq., the contractor must provide to the Commissioner on a certification form provided by the Commissioner, with documentation satisfactory to the Commissioner, that the contractor has all valid and effective licenses, registrations, or certificates required