

## HUMAN SERVICES

(a)

### DIVISION OF FAMILY DEVELOPMENT

#### Work First New Jersey Program

#### Work First New Jersey Program Requirements

#### Proposed Amendments: N.J.A.C. 10:90-1.2, 1.5, 2.2, 2.9, and 4.1

Authorized By: Sarah Adelman, 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 2024-026.

Submit comments by May 17, 2024, to:

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The agency proposal follows:

#### Summary

Currently, unless otherwise deferred, all Work First New Jersey (WFNJ)/General Assistance (GA) applicants are required to participate in a work activity for a minimum of 30 hours per week for 28 days prior to being determined eligible for assistance. GA applicants are required to appear at a One Stop Career Center for a minimum of three times during this 28-day period. This requirement is known as the 28-Day Protocol. In addition to the 28-Day Protocol, WFNJ/GA applicants must meet all other WFNJ/GA eligibility criteria.

Applicants who fail to comply with the 28-Day Protocol without good cause are ineligible for benefits and have a 30-day period of ineligibility applied to their case. The period of ineligibility begins on the date of the denial for failure to complete the assigned work activity.

Applicants for WFNJ/Temporary Assistance to Needy Families (TANF) and the New Jersey Supplemental Nutrition Assistance Program (NJ SNAP) are not subject to the 28-Day Protocol, nor any similar requirement, prior to an eligibility determination. The proposed amendments would remove the 28-Day Protocol as a condition in determining initial eligibility for WFNJ/GA and more closely align WFNJ/GA eligibility requirements with WFNJ/TANF and NJ SNAP.

The Department of Human Services (Department) proposes amendments at N.J.A.C. 10:90-1.2(f)8 and 9 and 1.5 to provide that eligibility for cash assistance for employable WFNJ/GA applicants shall no longer require the completion of a minimum 28-day employment-related activity requirement through the Department of Labor and Workforce Development (LWD). The proposed amendments would permit eligibility retroactive to the date of application with no requirement to complete the 28-day work activity and would eliminate the 30-day period of ineligibility for applicants who fail to complete the 28-day employment activity without good cause.

N.J.A.C. 10:90-2.2(a)2 is proposed for amendment to eliminate the requirement that a WFNJ/GA applicant participate in a minimum 28-day employment-related activity as determined by LWD before eligibility can be established. The language, as amended, would still require cooperation with work requirements, including an applicant interviewing for and accepting offered employment, as part of ongoing WFNJ/GA eligibility requirements.

N.J.A.C. 10:90-2.9(a)2x(1) is proposed for amendment to remove the reference to an exemption from the 28-Day Protocol due to an applicant being determined unemployable within the meaning of the WFNJ Program.

N.J.A.C. 10:90-4.1(a)1 is proposed for amendment to eliminate the requirement that WFNJ/GA applicants cooperate with the 28-Day Protocol before WFNJ/GA eligibility can be established. The amendments

would require that WFNJ/GA recipients participate in a work activity as a condition of ongoing eligibility.

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

#### Social Impact

The proposed amendments will positively impact otherwise eligible WFNJ/GA applicants as they will receive cash assistance benefits from the date of application, rather than from the date of completion of the 28-day work activity. Providing benefits to eligible applicants from the date of application will provide more immediate financial assistance to vulnerable populations.

#### Economic Impact

The proposed amendments will have a positive economic impact on the neediest residents of New Jersey who are eligible to receive WFNJ/GA benefits. The amendments will allow for eligibility determinations to be made without the delay of the 28-Day Protocol and provide assistance to financially vulnerable populations more expeditiously. Additionally, a recipient's benefits will be provided from the date of application and not the date of completion of the 28-Day Protocol. This change will provide financial assistance in the first month benefits are received.

The proposed amendments are calculated to have a minor economic impact on the State of New Jersey. The Department estimates that removal of the 28-Day Protocol will cost \$4,500,000 per year.

#### Federal Standards Statement

The proposed amendments impact the General Assistance program, which is authorized by State law at N.J.S.A. 44:8-107 et seq., and is not subject to any Federal requirements or standards; therefore, a Federal standards analysis is not required for this rulemaking.

#### Jobs Impact

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

#### Agricultural Industry Impact

The proposed amendments will not have an 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.

#### Housing Affordability Impact Analysis

The proposed amendments will have no impact on the affordability of housing in New Jersey and there is an extreme unlikelihood that the rules would evoke a change in the average costs associated with housing because the rules govern eligibility for WFNJ/GA benefits.

#### Smart Growth Development Impact Analysis

The proposed amendments will have an insignificant impact on smart growth and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, pursuant to the State Development and Redevelopment Plan in New Jersey because the rules govern client eligibility for WFNJ/GA.

#### Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Department 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 1. GENERAL PROVISIONS

## 10:90-1.2 Opportunity and decision to apply

(a)-(e) (No change.)

(f) Responsibilities of the county or municipal agency during the initial contact shall include, but not be limited to:

1.-7. (No change.)

8. Taking the WFNJ application at the county level, on the same day when an individual appears at the office to request an application, if possible, or in hardship cases, when a home visit occurs, which includes an Agreement to Repay (form WFNJ-10D), as well as an application for NJ SNAP benefits and an application for Medicaid or medical benefits, as appropriate. If the agency determines that the application cannot be completed on the day of the request, the applicant shall be afforded the opportunity to file the application that day by providing his or her name and signature, as well as the date of filing, on the application. The applicant shall be provided with an appointment to complete the application process. The agency must ensure that eligibility shall be retroactive to the date on which the individual signed the application [, except in the case of an employable WFNJ/GA applicant. For such an applicant, eligibility shall commence after he or she has completed a minimum of 28 days in an employment-related activity through LWD. While the applicant is participating in the activity, the agency shall ensure that the application is being processed for issuance of cash assistance upon completion of the 28-day employment-related activity, if the applicant appears otherwise eligible. Cash assistance shall be issued from the date eligibility is established, not the application date. An applicant's failure to comply with the employment-related activity requirement, without good cause, shall result in a denial of the applicant's WFNJ/GA application and a 30-day period of ineligibility. The period of ineligibility shall begin on the date of the denial for failure to complete the assigned activity. The notice of denial shall be issued in accordance with the provisions at N.J.A.C. 10:90-9. The penalty shall only be applied if the applicant reapplies within 30 days of the denial date and shall be noted on the denial notice].

i. (No change.)

9. Taking the WFNJ application at the municipal level, on the same day when an individual appears at the office to request an application, if possible, or in hardship cases, when a home visit occurs, which includes an Agreement to Repay (form WFNJ-10D) for cash assistance, emergency assistance, and any monies that the Division of Medical Assistance and Health Services spends as a direct result of accident-related injuries. If the agency determines that the application cannot be completed on the day of request, the applicant shall be afforded the opportunity to file the application that day by providing his or her name and signature, as well as the date of filing, on the application. The applicant shall be provided with an appointment to complete the application process. The agency must ensure that eligibility shall be retroactive to the date the individual signed the application[, except in the case of an employable WFNJ/GA applicant. For such an applicant, eligibility shall commence after he or she has completed a minimum of 28 days in an employment-related activity through LWD. While the applicant is participating in the activity, the agency shall ensure that the application is being processed for issuance of cash assistance upon completion of the 28-day employment-related activity, if the applicant appears otherwise eligible. Cash assistance shall be issued from the date eligibility is established, not the application date. An applicant's failure to comply with the employment-related activity requirement, without good cause, shall result in a denial of the applicant's WFNJ/GA application and a 30-day period of ineligibility. The period of ineligibility shall begin on the date of the denial for failure to complete the assigned activity. The notice of denial shall be issued in accordance with the provisions at N.J.A.C. 10:90-9. The penalty shall only be applied if the applicant reapplies within 30 days of the denial date and shall be noted on the denial notice].

i. (No change.)

10. (No change.)

## 10:90-1.5 Prompt disposition by the county or municipal agency

[(a)] Persons shall be given the opportunity to comply with the eligibility requirements and apply for WFNJ benefits without delay. Staff of the county or municipal agency shall accept, process, and recommend

action on applications for assistance within 30 days. If the applicant is eligible, payment shall be issued as soon as eligibility is established. The county or municipal agency shall act promptly and timely on applications as long as the WFNJ participant is eligible for assistance and is complying with program requirements. Failure of the county or municipal agency to act promptly and timely shall not be a basis for denying or delaying the issuance of benefits. The county and municipal agency shall also act promptly and timely on redetermining eligibility, but failure of the county or municipal agency to act promptly and timely shall not be a basis for delay in granting assistance.

[1. During the application process, employable WFNJ/GA applicants are required to participate in a minimum of 28 days of an employment-related activity through LWD before eligibility can be established. Cash assistance shall be issued as provided for at N.J.A.C. 10:90-1.2(f)8 and 9.

i. During participation in a minimum of 28 days of an employment-related activity, applicants may be eligible for immediate need, medical care, and NJ SNAP and other WFNJ benefits in accordance with the immediate needs provision at N.J.A.C. 10:90-1.3. Transportation for participation in the work related activity may also be provided under N.J.A.C. 10:90-1.3; and

ii. For applicants who fail to comply with the requirement for participation in an employment-related activity for a minimum of 28 days, without good cause, the agencies shall refer to N.J.A.C. 10:90-1.2(f)8 and 9.]

## SUBCHAPTER 2. NON-FINANCIAL ELIGIBILITY REQUIREMENTS

## 10:90-2.2 WFNJ TANF/GA eligibility requirements

(a) An applicant/recipient, as a condition of eligibility for WFNJ TANF/GA benefits, shall, subject to good cause exceptions, be required to do the following:

1. (No change.)

2. Cooperate with work requirements, including interviewing for and accepting employment, if offered[, and for employable GA applicants, participating in a minimum of 28 days of employment-related activities through LWD before eligibility can be established];

3.-10. (No change.)

(b)-(e) (No change.)

## 10:90-2.9 Definition of employable/unemployable persons in WFNJ/GA

(a) The definition of employable/unemployable persons for determination of payment level is as follows:

1. (No change.)

2. An unemployable person is any person who meets any of the criteria listed below:

i.-ix. (No change.)

x. Persons determined to be incapacitated by the agency that administers the WFNJ/GA program are unemployable when such determination of incapacity is supported by the following circumstances:

(1) Form WFNJ/MED-1 shall be fully completed by an examining physician that the individual is unable to comply with WFNJ/GA requirements. Such certification shall include, at a minimum, the date of examination, diagnosis, length of incapacity, functional limitations, prescribed treatment, an indication of whether or not reevaluation will be necessary, and the examining physician's signature. The cash assistance benefit shall be issued at the employable rate until the recipient is determined unemployable for a minimum of six continuous months by the examining physician. Upon presentation of documentation of unemployability, applicants and recipients shall be considered deferred from the work requirement in accordance with N.J.A.C. 10:90-4.10 [and shall not be required to meet the WFNJ/GA 28-day work activity requirement]. A recipient whose unemployable status fluctuates from month-to-month will continue to receive cash assistance at the employable rate until he or she is determined unemployable for a minimum of six continuous months by an examining physician. Payment at the unemployable rate shall begin at the seventh month of unemployability. If medical documentation presented at application or redetermination indicates a period of unemployability of six months or more, then the

unemployable cash assistance rate shall be issued upon a determination of eligibility.

(A) (No change.)

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 SNAP 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] pursuant to 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. [For GA applicants, the cooperation process begins at application, with the requirement to participate in a minimum 28-day employment-related activity through LWD, before WFNJ-eligibility can be established.]

2.-3. (No change.)

(b)-(f) (No change.)

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