

Poor Law -- Introduction

Two main laws with confusingly similar names govern assistance to the needy in New Jersey. One, the “Work First New Jersey” act, N.J.S. 44:10-55 et seq., L. 1997, resulted from the federal “Personal Responsibility and Work Opportunity Reconciliation Act of 1996,” 42 U.S.C. Section 601, et seq., which established a federal block grant for temporary assistance for needy families and enabled the states to design their own welfare programs. This act replaced earlier programs including: aid to families with dependent children, general public assistance, emergency assistance for recipients, and the Family Development Initiative. N.J.S. 44:10-58(b). The two main relief programs established by this act are Temporary Aid for Needy Families (TANF) and General Assistance (GA). TANF is the successor to the federally funded categorical programs; GA is the continuation of the municipal general public assistance for those people who do not fit within the categorical programs.

The Work First New Jersey General Public Assistance Act, N.J.S. 44:8-107 et seq., L. 1997, the second main law, replaced the State’s General Public Assistance law of 1947. The relationship between the two “Work First” laws is obfuscated by their statutory language. The Work First New Jersey General Public Assistance Act seems to establish a general assistance program for “needy, single adults and couples without dependent children” N.J.S. 44:8-108. In fact, the act serves to provide for municipal governance of the General Assistance program established by the other “Work First” act. In 1995, most provisions were amended to allow either the municipality or the county, where appropriate, to run the program. In current practice, program administration is equally divided between municipal and county governance. The TANF program is administered by the county.

This draft proposes that the entire Title be called “Work First New Jersey” and that the distinctions between Public Assistance (now Chapter 8) and Temporary Assistance to Needy Families (currently Chapter 10) be clarified to remove meaningless and unnecessary duplication. The draft presents the substantive and then the administrative provisions for each chapter. The substantive provisions explain who is eligible, what benefits one receives, and the work requirements.

Work First New Jersey

Chapter 1 – Public Policies and Legislative Findings

1-1. Entitlement; responsibility

a. It is the public policy of New Jersey that every eligible person in the State is entitled to receive public assistance and that the State is responsible for funding it.

b. The Legislature finds that the law of New Jersey always has imposed a duty on the public entities to provide assistance to eligible persons. Nothing in this law, by enactment or repeal, is intended to affect that basic duty. If the programs continued in this law do not provide all necessary assistance to eligible persons, additional assistance shall be provided by public entities as in the past.

Source: 44:8-109, New.

COMMENT

Subsection (a) derives from the first paragraph of 44:8-109. Subsection (b) is new and is intended to assure that recompilation of poor law dating back to the nineteenth century does not disturb the basic common law principle that there is a public duty to assist the needy.

1-2. Categories of eligible persons

a. It is the public policy of New Jersey that two categories of persons may be eligible for financial assistance under the act: the employable and the unemployable. The Commissioner may set differing levels of assistance for these categories.

b. Every eligible person in New Jersey is entitled to receive appropriate general public assistance whether or not the person is employable. The State is responsible for funding the assistance. All eligible persons not otherwise provided for under State laws shall receive public assistance pursuant to this act.

c. An eligible person shall be given ~~The municipal or county director of public assistance shall give~~ appropriate assistance during the time ~~the~~ an application for assistance is being considered.

Source: 44:8-109, 44:8-120.

COMMENT

Subsections (a) and (b) come from the second paragraph of 44:8-109. Subsection (c) derives from 44:8-120 and emphasize that assistance may begin before the entire inquiry process initiated by an application concludes.

Chapter 2 – General Public Assistance

2-1. Definitions

a. “Employable person” means a person applying for or receiving public assistance under this act who is not prevented from working by physical or mental disability as defined in the commissioner’s regulations.

b. “Public assistance” means assistance provided to eligible single adults and couples without dependent children who are willing to work but cannot be employed because of physical or mental disability or inability to find employment.

c. “Commissioner” means the Commissioner of the Department of Human Services unless specified otherwise.

Source: 44:8-108.

COMMENT

The draft reduces the number of definitions, streamlines their language and eliminates unnecessary cross references.

2-2. Eligible person

An “eligible person” is a person who needs help from New Jersey government to avoid suffering unnecessarily from cold, hunger, sickness or lack of shelter.

Source: New

COMMENT

The draft replaces the terms “needy” and “poor” with “eligible person” and defines the new term here at the outset of the Eligibility portion of the General Public Assistance Chapter. The specified problems of cold, hunger, sickness or lack of shelter derive from language in 44:1-88, 44:4-83, and 44:8-122.

2-3. Income from other sources; deductions from public assistance; exception

a. An applicant for public assistance or any dependent of the applicant, who receives or is entitled to receive income from other sources or compensation for part-time or casual services, shall remain eligible to receive public assistance if the income or compensation is insufficient to support the applicant and dependent(s) properly.

b. The amount of other income or compensation shall be deducted from the amount of public assistance which the applicant otherwise would be entitled to receive.

c. Any money received because of a settlement agreement or judgment in a lawsuit brought against a manufacturer or distributor of “Agent Orange” for damage resulting from exposure to “Agent Orange” shall not be subject to a lien or be available for repayment to the State, county or municipality for public assistance the applicant receives.

Source: 44:8-125.

COMMENT

Substantially similar to the source provision which was amended in 1995 to include the county.

2-4. Period of eligibility for assistance

An eligible person who receives assistance shall continue to receive it as long as the person remains eligible.

Source: New, 44:1-92.

COMMENT

The 1924 provision, expressly not repealed by the Work First statutes dealt with the length of stay for persons in almshouses or welfare houses, neither of which exists today.

2-5. Place where public assistance given

a. ~~The director of public assistance of the municipality or the county shall give immediate public assistance to any~~ An eligible person shall receive public assistance in the municipality where the person is found at the time of application.

b. Eligible persons residing in public or private facilities providing residential therapeutic medical services shall be ~~the responsibility~~ considered as resident of the municipality ~~or county~~ of their place of customary abode prior to placement in the facility.

Source: 44:8-120.

COMMENT

This section is similar to the source provision.

2-6. Inquiry into eligibility; record;

a. A person who applies for public assistance shall make an affidavit to the correctness of the statements in the application.

b. ~~for oneself or dependents, the municipal or county director of~~ The agency administering public assistance shall inquire into the facts and circumstances of the case, including customary place of abode, family connections, living conditions, resources, income, and causes of the person's need, and other matters which state regulations require.

c. ~~The director of public assistance shall make a~~ A written record of the inquiry shall be made in the form prescribed by the commissioner.

d. ~~The director of public assistance, by written order shall give~~ Assistance necessary to prevent an eligible applicant or dependents of the applicant, from suffering from cold, hunger, sickness or lack of shelter shall be given pending further consideration of the case.

Source: 44:8-119, 44:8-121, 44:8-122.

COMMENT

The draft combines the sources. In subsection (b), the phrase “family connections” condenses provisions in earlier statutes (N.J.S. 44:1-87 and 44:4-82) that directed the “overseer” to ascertain whether family members existed who were “by law required and able to maintain” the needy person.

2-7. Type and extent of assistance; revocation

a. ~~Continued~~ Assistance to meet the needs and protect the well being of ~~assistance grantees, eligible persons~~ including provision of food, shelter, fuel, clothing or medical care, may be provided by:

(1) cash assistance, or

(2) any other method authorized by the ~~municipal or county public agency administering general public assistance board, approved by the governing body and~~ in compliance with regulations.

b. The extent of individual grants shall be determined in accordance with standards and budgets which the commissioner authorizes by regulations.

c. ~~The municipal or county director may summarily revoke any order for continued~~ Assistance may be discontinued when the person receiving it no longer appears eligible, or will be adequately provided for otherwise.

Source: 4:8-123, 44:8-124, 44:8-127.

COMMENT

The draft provision combines the three sources.

2-8. Employable persons to work; exemption; noncompliance

a. An employable person receiving public assistance shall be required to work, except for good cause.

b. The commissioner may determine to exempt a person from the work requirement for reasons of physical or mental impairment, age, illness, injury, caretaker responsibilities, employment or unsuitability.

c. Any person who without good cause does not comply with the work requirements, according to regulations, shall be subject to loss of cash assistance benefits as provided by this Title.

Source: 44:8-114.

COMMENT

The draft streamlines the source.

2-9. Opportunity for hearing

a. If an applicant’s or recipient’s claim for benefits is denied, reduced, suspended, terminated or not acted upon within a reasonable time, in accordance with regulations adopted by the commissioner, the commissioner shall insure that the applicant or recipient is afforded the opportunity for a hearing conducted by the Office of Administrative Law in accordance with the “Administrative Procedure Act,” N.J.S. 52:14B-1 et seq.

b. A recipient shall continue receiving current benefits pending the outcome of the hearing.

Source: 44:10-52.

COMMENT

The draft provision is substantively like the source that applies to the TAEH program. There is no explicit provision in current law for the general assistance program.

Chapter 3 – Temporary Aid to Eligible Families-Households (TAEH)

3-1. Definitions

“Alternative work experience” means unpaid work and training only with a public, private nonprofit or private charitable employer that provides a recipient with the experience necessary to adjust to, and learn how to function in, an employment setting and the opportunity to combine that experience with education and job training. An alternative work experience participant shall not be assigned to work for a private, for profit employer.

Source: 44:10-34, 44:10-57.

“~~Assistance unit~~” “Eligible family household” means: a single person without dependent children; a couple without dependent children; dependent children only; or a person or couple with one or more dependent children who are legally or blood-related, or who is their legal guardian, and who live together as a household unit.

Source: 44:10-34, 44:10-44, 44:10-71.

“Commissioner” means the Commissioner of the Department of Labor unless otherwise specified.

“Community work experience” means unpaid work and training only with a public, private nonprofit or private charitable employer, provided to a recipient when, and to the extent, that such experience is necessary to enable the recipient to adjust to, and learn how to function in, an employment setting. A community work experience participant shall not be assigned to work for a private, for profit employer.

Source: 44:10-34, 44:10-57.

“Dependent child” means a child:

- a. under the age of 18;
- b. under the age of 19 and a full-time student in a secondary school or an equivalent level of vocational or technical training, if, before the student attains age 19, the student may reasonably be expected to complete the student’s program of secondary school or training; or
- c. under the age of 21 and enrolled in a special education program, who is living in New Jersey with the child’s natural or adoptive parent or legal guardian, or with a

relative designated by the commissioner in a place of residence maintained by the relative as the relative's home.

Source: 44:10-34, 44:10-44, 44:10-57, 44:10-71.

"Eligible alien" means one of the following:

a. a qualified alien, admitted to the United States prior to August 22, 1996, who is eligible for means-tested, federally funded public benefits pursuant to federal law;

b. a refugee, asylee, or person granted withholding of deportation under federal law for the person's first five years after receiving that classification in the United States pursuant to federal law;

c. a qualified alien who is a veteran of, or on active duty in, the armed forces of the United States, or the spouse or dependent child of that person pursuant to federal law;

d. a recipient of refugee and entrant assistance activities or a Cuban or Haitian entrant pursuant to federal law;

e. a legal permanent resident alien who has worked 40 qualifying quarters of coverage as defined under Title II of the federal Social Security Act; except that for any period after December 31, 1996, a quarter during which an individual received means-tested, federally funded public benefits shall not count toward the total number of quarters;

f. a qualified alien admitted to the United States on or after August 22, 1996, who has lived in the United States for at least five years and is eligible for means-tested, federally funded public benefits pursuant to federal law; or

g. a qualified alien who has been battered or subjected to extreme cruelty in the United States by a spouse, parent or a member of the spouse or parent's family residing in the same household as the alien, or a qualified alien whose child has been battered or subjected to extreme cruelty in the United States by a spouse or parent of the alien, without the active participation of the alien, or by a member of the spouse or parent's family residing in the same household as the alien. In either case, the spouse or parent shall have consented or acquiesced to the battery or cruelty and there shall be a substantial connection between the battery or cruelty and the need for benefits to be provided. The provisions of this subsection shall not apply to an alien during any period in which the individual responsible for the battery or cruelty resides in the same household or ~~assistance unit~~ eligible family household as the individual subjected to the battery or cruelty. Benefits shall be provided to the extent and for the period of time that the alien or alien's child is eligible for the program. "Qualified alien" is defined according to section 431 of Title IV of Pub. L. 104-193.

Source: 44:10-44, 44:10-57.

"Full-time employment" means employment unsubsidized by any level of government in which a person is engaged for at least 35 hours a week.

Source: 44:10-71.

"Full-time post-secondary student" means a student enrolled for a minimum of 12 credit hours in a post-secondary school.

Source: 44:10-57.

“Income” means, but is not limited to, commissions, salaries, self-employed earnings, child support and alimony payments, interest and dividend earnings, wages, receipts, unemployment compensation, any legal or equitable interest or entitlement owed that was acquired by a cause of action, suit, claim or counterclaim, insurance benefits, temporary disability claims, estate income, trusts, federal income tax refunds, State income tax refunds, homestead rebates, lottery prizes, casino and racetrack winnings, annuities, retirement benefits, veterans’ benefits, union benefits, or other sources that the commissioner may define as income, except that in the event that individual development accounts for recipients are established by regulation of the commissioner, any interest or dividend earnings from such an account shall not be considered income.

Source: 44:10-34, 44:10-44, 44:10-57.

“Income eligibility standard” means the income eligibility threshold based on ~~assistance unit~~ eligible family household size established by regulation of the commissioner for benefits provided within the limit of funds appropriated by the Legislature.

Source: 44:10-34, 44:10-44.

“Legal guardian” means a person who exercises continuing control over the person or property, or both, of a child, including any specific right of control over an aspect of the child’s upbringing, pursuant to a court order.

Source: 44:10-34, 44:10-44, 44:10-57, 44:10-71.

“Non- eligible caretaker” means a relative caring for a dependent child, or a legal guardian of a minor child who, in the absence of a natural or adoptive parent, assumes parental responsibility and has income which exceeds the income eligibility standard but is less than 150% of the State median income adjusted for household size.

Source: 44:10-44.

“Poverty level” means the official poverty level based on family size, established and adjusted under Section 673(2) of Subtitle B of the “Community Services Block Grant Act,” Pub. L. 97-35 (42 U.S.C. sect. 9902(2)).

Source: 44:10-34.

“Program” means the Work First New Jersey TANF program.

Source: 44:10-34, 44:10-44, 44:10-57, 44:10-71.:

“Services” means any Work First New Jersey benefits that are not provided in the form of cash assistance.

Source: 44:10-34, 44:10-44.

“Standard of need” means the minimum amount of income and in-kind benefits or services needed by families and single persons living in New Jersey in order to maintain a decent and healthy standard of living, as established by regulation of the commissioner, and shall include necessary items such as housing, utilities, food, work-related transportation, clothing and personal and household essentials.

Source: 44:10-34.

“Title IV-A” means the provisions of Title IV-A of the federal Social Security Act governing the program of aid to families with dependent children established pursuant to P. L. 1959, c. 86 (N.J.S. 44:10-1 et seq.) and the State Plan to implement those provisions that were in effect on July 16, 1996, including income methodologies for determining eligibility under those provisions and plan.

Source: 44:10-34.

“Title IV-D” means the provisions of Title IV-D of the federal Social Security Act governing paternity establishment and child support enforcement activities and requirements.

Source: 44:10-34, 44:10-44, 44:10-57.

“Work activity” includes the following, as defined by regulation of the commissioner: employment; on-the-job training; job search and job readiness assistance; vocational educational training; job skills training related directly to employment; community work experience; alternative work experience; supportive work; community service programs, including the provision of child care as a community service project; in the case of a teenage parent or a recipient under the age of 19 who is expected to graduate or complete their course of study by their 19th birthday, satisfactory attendance at a secondary school or in a course of study leading to a certificate of general equivalence; and education that is necessary for employment in the case of a person who has not received a high school diploma or a certificate of high school equivalency, a course of study leading to a certificate of general equivalence, or post-secondary education, when combined with community work experience participation or other approved work activities, including employment.

Source: 44:10-34, 44:10-57.

COMMENT

The draft combines all the definitions of the four source sections into one provision. Source sections are indicated after each definition because we are still working on this project. When we are satisfied with the Definitions Section, we will remove the sources after each definition and indicate the four source sections at the end of the whole group as usual.

3-2. Determination of eligibility for benefits

a. Benefits under the Work First New Jersey program shall be determined according to standards of income and resources established by the commissioner. These standards shall take into account, for the determination of eligibility and the provision of benefits, all income and resources of all persons in the ~~assistance unit~~ eligible family household of which the applicant or recipient is a member, except as provided by law governing the Work First New Jersey program and as prescribed by the commissioner. The benefits to be granted shall be governed by standards established by regulation of the commissioner. The commissioner may set income and resource eligibility and benefits standards that differ with respect to types of ~~assistance units~~ eligible families households.

b. A recipient, as a condition of eligibility for benefits, shall, subject to good cause exception as defined by the commissioner, be required to: do all acts stated herein

necessary to establish the paternity of a child born out-of-wedlock, and to establish and participate in the enforcement of child support obligations; cooperate with work requirements established by the commissioner; make application for any other assistance for which members of the ~~assistance-unit~~ eligible family household may be eligible; be income and resource eligible as defined by the commissioner, including the deeming of income and resources as appropriate; provide all necessary documentation which shall include the federal Social Security number for all ~~assistance-unit~~ eligible family household members, except for an eligible alien who cannot be assigned a Social Security number due to status, or make application for the number; sign an agreement to repay benefits in the event of receipt of income or resources; and comply with personal identification requirements as a condition of receiving benefits, which may employ the use of high technology processes for the detection of fraud. c. An applicant shall not be eligible for benefits when the applicant's eligibility is the result of a voluntary cessation of employment without good cause, as determined by the commissioner, within 90 days prior to the date of application for benefits.

c. A voluntary assignment or transfer of income or resources within one year prior to the time of application for benefits for the purpose of qualifying therefore shall render the applicant and the applicant's ~~assistance-unit~~ eligible family household members ineligible for benefits for a period of time determined by regulation of the commissioner.

d. Any income or resources that are exempted by federal law for purposes of eligibility for benefits shall not reduce the amount of benefits received by a recipient and shall not be subject to a lien or be available for repayment to the State or county agency for benefits received by the individual.

Source: 44:10-45.

COMMENT

The draft provision is substantially like the source.

3-3. Evaluation of caregiver's eligibility for benefits

A person other than a natural or adoptive parent or stepparent who is a caregiver to a dependent child who is that caregiver's legal or blood relative, shall be evaluated to determine whether that person is eligible for benefits if that person's income does not exceed 150% of the poverty level.

Source: 44:10-35.

COMMENT

The draft is substantially identical to the source.

3-4. Eligibility of parent for benefits

a. A parent eligible for benefits, married to a person who is not the parent of one or more of the eligible parent's children, shall not be eligible for benefits if the household income exceeds the income eligibility standard.

b. The eligible parent's natural children shall be eligible for benefits according to a sliding income scale established by the commissioner which does not take into account the income of the eligible parent's spouse, if the total annual household income does not exceed 150% of the poverty level.

c. The spouse of the eligible parent and the spouse's natural child, if any, who is living with the family, who is not the eligible parent's natural child, shall not be eligible for benefits.

Source: 44:10-36.

COMMENT

The draft provision is substantially identical to the source.

3-5. Disregards applied to earned income in computing cash assistance benefits

In comparing the cash assistance benefit provided to recipients, the following disregards shall be applied to the earned income of each person in the ~~assistance unit~~ eligible family household:

- a. 100% for the first month of employment; and
- b. 50% for each subsequent month.

Source: 44:10-37.

COMMENT

The draft provision is substantially identical to the source.

3-6. Eligibility for persons with less than one year of State residence

a. A recipient who has resided in New Jersey for less than 12 consecutive months shall be eligible to receive cash assistance benefits in the amount that the recipient would have received from the recipient's immediately prior state of residence if that amount is less than the cash assistance benefits provided by the program.

b. This limitation on cash assistance benefits shall apply until the recipient has resided in New Jersey for 12 consecutive months.

Source: 44:10-46.

COMMENT

The draft provision is substantially like the source.

3-7. Eligibility of citizens; eligible aliens

a. Only those persons who are United States citizens or eligible aliens shall be eligible for benefits under the Work First New Jersey program. Single adults or couples without dependent children who are legal aliens who meet federal requirements and have applied for citizenship, shall not receive benefits for more than six months unless (1) they attain citizenship, or (2) they have passed the English language and civics components for citizenship, and are awaiting final determination of citizenship by the federal Immigration and Naturalization Service.

b. The following persons shall not be eligible for assistance and shall not be considered to be members of an ~~assistance unit~~ eligible family household:

(1) non- eligible caretakers, except that the eligibility of a dependent child shall not be affected by the income or resources of a non- eligible caretaker;

(2) Supplemental Security Income recipients, except for the purposes of receiving emergency assistance benefits pursuant to N.J.S. 44:10-51;

(3) illegal aliens;

(4) other aliens who are not eligible aliens;

(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, except as provided by regulation of the commissioner;

(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;

(7) a person convicted on or after August 22, 1996 under federal or state law of any offense which is classified as a felony or crime under the laws of the jurisdiction involved and which has an element the possession, use, or distribution of a controlled substance as defined in the federal "Controlled Substances Act," 21 U.S.C. sect. 802(6); except that a person convicted of any such offense which has as an element the possession or use only of such a controlled substance may be eligible for Work First New Jersey benefits, and food stamp benefits under the federal "Food Stamp Act of 1977," 7 U.S.C. sect. 2011 et seq., if the person enrolls in or has completed a licensed residential drug treatment program. Eligibility for benefits shall commence upon the person's enrollment in the drug treatment program, and shall continue during the person's active participation in, and upon completion of, the drug treatment program, except that during the person's active participation in a drug treatment program and the first 60 days after completion of a drug treatment program, the commissioner shall provide for testing of the person to determine if the person is free of any controlled substance. If the person is not free of any controlled substance during the 60-day period, the person's eligibility for benefits pursuant to this paragraph shall be terminated; except that this provision shall not apply to the use of methadone by a person who is actively participating in a drug treatment program as prescribed by the drug treatment program. The commissioner, in consultation with the Commissioner of Health and Senior Services, shall adopt regulations to carry out the provisions of this paragraph, which shall include the criteria for determining active participation in and completion of a drug treatment program. [JC: this has been done, but does it stay in to state how additional regs would be adopted?]

Cash benefits, less a personal needs allowance, for a person receiving benefits under the Work First New Jersey program who is enrolled in and actively participating in a licensed residential drug treatment program shall be issued directly to the drug treatment provider to offset the cost of treatment. Upon completion of the drug treatment program, the cash benefits then shall be issued to the person. In the case of a delay in

issuing cash benefits to a person receiving Work First New Jersey benefits who has completed the drug treatment program, the drug treatment provider shall transmit to the person those funds received on behalf of that person after completion of the drug treatment program;

(8) a person found to have fraudulently misrepresented the person's residence in order to obtain means-tested, public benefits in two or more states or jurisdictions, who shall be ineligible for benefits for a period of 10 years from the date of conviction in a federal or state court; or

(9) a person who intentionally makes a false or misleading statement or misrepresents, conceals or withholds facts for the purpose of receiving benefits, who shall be ineligible for benefits for a period of six months for the first violation, 12 months for the second violation, and permanently for the third violation.

c. A person who makes a false statement with the intent to qualify for benefits and thereby receives benefits for which the person is not eligible is guilty of a crime of the fourth degree.

Source: 44:10-48.

COMMENT

The draft provision is substantially like the source.

3-8. Eligibility of certain drug offenders for food stamps and medical services

a. A person convicted of any offense that has an element the distribution of a controlled substance as defined in section 102(6) of the federal "Controlled Substances Act," 21 U.S.C. sect. 802(6), who meets the eligibility criteria for Work First New Jersey General Assistance or Work First New Jersey Temporary Assistance to Needy Families benefits may receive food stamp benefits under the federal "Food Stamp Act of 1977," 7 U.S.C. sect. 2011 et seq. The department shall determine eligibility for food stamps and the eligibility may continue upon completion of a licensed residential drug treatment program.

b. A person convicted of any offense that has an an element the distribution of a controlled substance as defined in section 102(6) of the federal "Controlled Substances Act," 21 U.S.C. sec.802(6), who meets the eligibility criteria for Work First New Jersey General Assistance benefits may receive medical services only. The medical services shall not exceed benefits offered in the Work First New Jersey General Assistance program. Access to these medical services is limited to the time a person is receiving treatment in a licensed residential drug treatment program.

c. Eligibility for benefits under subsection (a) or (b) of this section shall commence upon the person's enrollment in the drug treatment program, and shall continue during the person's active participation in, and upon completion of, the drug treatment program, except that during a person's active participation in a drug treatment program and the first 60 days after completion of a drug treatment program, the commissioner whall provide for testing of the person to determine if the person is free of any controlled substance. If the person is not free of any controlled substance during the 60-day period, the person's eligibility for benefits pursuant to this section shall be

terminated; except that this provision shall not apply to the use of methadone by a person who is actively participating in a drug treatment program, as prescribed by the drug treatment program. The Commissioner of Human Services, in consultation with the Commissioner of Health and Senior Services, shall adopt regulations to carry out the provisions of this section, which shall include the criteria for determining active participation in and completion of a drug treatment program.

Source: 44:10-48.1.

COMMENT

The draft is substantially like the source, but omits a concluding subsection which defines “WFNJ-GA” and “WFNJ-TANF”; the definition sections for both aspects of the Work First New Jersey program define “benefits” and “assistance unit.”

3-9. Notification required when dependent child is absent from home

a. A dependent child who has been or is expected by a parent, legal guardian or caretaker relative to be absent from the home for a period of time established by regulation of the commissioner, shall remain eligible for benefits during that period, except that, an absence for periods or for reasons other than those stated in the regulations adopted by the commissioner shall be cause for denial or termination of benefits for that dependent child.

b. A parent, legal guardian or caretaker relative who does not report the absence of a dependent child to the county agency by the end of the five-day period beginning on the day that the parent, legal guardian or caretaker relative becomes aware that the child will be absent, shall be ineligible for benefits pursuant to federal law for a period of time which the commissioner decides.

Source: 44:10-50.

COMMENT

The draft provision is substantially like the source.

3-10. Emergency assistance; extension

a. Emergency assistance shall be provided only to recipients of Work First New Jersey and persons receiving Supplemental Security Income pursuant to N.J.S. 44:7-85 et seq. in emergent situations, as the commissioner determines, for up to 12 cumulative months, except that:

(1) the commissioner may provide for an extension of emergency assistance for up to six additional months to an ~~assistance unit~~ eligible family household with dependent children, if the commissioner determines that a case of extreme hardship exists. The commissioner shall review each such case on a monthly basis during the six-month period and shall continue the emergency assistance only if the commissioner determines that the extreme hardship continues to exist. If the extreme hardship continues to exist at the end of the six-month period, the commissioner may provide an additional six months of emergency assistance to no more than 10% of those ~~assistance units~~ eligible families households with dependent children which are receiving temporary

rental assistance under the emergency assistance component of the program, based upon the most current data available; and

(2) the commissioner may provide for an extension of emergency assistance for up to six additional months to no more than 10% of single adults and couples without dependent children who are receiving temporary rental assistance under the emergency assistance component of the program, if the commissioner determines that a case of extreme hardship exists. The commissioner shall review each such case on a monthly basis during the six-month period and shall continue the emergency assistance only if the commissioner determines, based upon the monthly review, that the extreme hardship continues to exist.

Any form of emergency assistance provided pursuant to this section shall count toward the maximum period of emergency assistance allowed.

b. A person receiving emergency assistance shall contribute from the person's income toward the payment of all emergency shelter arrangements, including temporary housing and temporary rental assistance, in accordance with regulations adopted by the commissioner. As a condition of receipt of emergency assistance, a person shall be required to take all reasonable steps to end the person's dependency on emergency assistance and take all other actions which the commissioner requires.

c. The commissioner shall adopt regulations to establish classifications for hotel or motel per diem rates in accordance with the level of enhanced services provided at a participating hotel or motel.

d. The provisions of this section shall apply to a person who receives general public assistance pursuant to N.J.S. 44:8-107 et seq. after the effective date of this act and is subsequently transferred directly into the Work First New Jersey program.

Source: 44:10-51.

COMMENT

The draft provision is substantially like the source.

3-11. Repayment obligation

a. A person shall be required to satisfy any sanction or repayment obligation incurred pursuant to any federal or State law governing public assistance, including any repealed by this act, as a condition of eligibility for benefits.

b. When a parent or relative with whom a dependent child is living applies for or receives benefits for that child, and it appears that there is pending entitlement to a payment to the child or to either or both of the parents, of funds arising from a claim or interest legally or equitably owned by the child or by either or both of the parents, other than that portion of a personal injury award which a court specifically awards to a child to make the child whole as a result of an injury, the county agency, as a condition of eligibility or continuation of eligibility for benefits, may require either or both parents, or relative, to execute a written promise to repay from anticipated funds, the amount of benefits to be granted from the date of entitlement to that payment. Upon refusal to repay in accordance with the written promise, including refusal by any person acting for or on

behalf of either or both parents or relative, the county agency may take necessary action under State law to enforce the promise, for which the granting or continuing of benefits shall be due consideration. Any payments from the settlement of the claim or interest legally or equitably owned by the child or by either or both parents made by any person acting for or on behalf of either or both parents or relative, after notice of claim to the county agency and before express written approval by the county agency shall cause that person to be liable the county agency in the amount of the payment.

c. When any child for whom benefits have been paid pursuant to this act or assistance paid pursuant to an act repealed by this act, shall die prior to the child's 21st birthday, and shall leave an estate, the total amount of benefits or assistance paid to that child shall be a valid and enforceable claim against that estate, with priority over all other unsecured claims except reasonable funeral expenses and terminal medical and hospital expenses, and the county agency shall take necessary action under State law to enforce that claim.

d. The county agency, with the consent of the Division of Family Development in the Department of Human Services, may compromise and settle any claim for repayment of benefits paid pursuant to this act or assistance paid pursuant to any act repealed by this act.

e. The Division of Family Development shall determine and make financial adjustments as necessary to maintain correct proportional repayment among the counties and the State.

Source: 44:10-64.

COMMENT

The draft provision deletes redundant language and reletters the subsections.

3-12. Opportunity for hearing

a. If an applicant's or recipient's claim for benefits is denied, reduced, suspended, terminated or not acted upon within a reasonable time, in accordance with regulations adopted by the commissioner, the commissioner shall insure that the applicant or recipient is afforded the opportunity for a hearing conducted by the Office of Administrative Law in accordance with the "Administrative Procedure Act," N.J.S. 52:14B-1 et seq.

b. A recipient shall continue receiving current benefits pending the outcome of the hearing.

Source: 44:10-52.

COMMENT

The draft provision is substantively like the source.

3-13. Supportive services

a. The program shall provide supportive services to a recipient as a last resort when no other source of support is available; however the recipient shall be required to

seek continuously other sources of support. Supportive services shall include, but not be limited to, one or more of the following:

(1) child care services, including after-school child care for a child older than six years, for eligible dependent children, to be provided during the recipient's program eligibility period and for 24 consecutive months following ineligibility for benefits as a result of receipt of earned income.

An adult recipient who continues to be eligible to receive child care services following ineligibility for benefits, and an adult recipient who is employed but continues to receive benefits, shall pay a copay for child care services in accordance with a sliding fee scale established by the commissioner, which shall be no greater than the child care co-payment schedule established pursuant to N.J.A.C. 10:81-14.18A;

(2) transportation services to be provided directly by the program or through an allowance or other means of subsidy by which the recipient may purchase transportation; and

(3) a limited allowance for each ~~assistance-unit~~ eligible family household to cover work-related expenses necessary to engage in required work activities, as determined by the commissioner.

b. Medical assistance shall be provided to an ~~assistance-unit~~ eligible family household with dependent children pursuant to N.J.S. 30:4D-1 et seq. in accordance with the provisions of N.J.S. 30:4D-6(c) which provides for a continuation of medical assistance for a period of 24 consecutive months under certain circumstances, except that:

(1) coverage solely of the adult head of an ~~assistance-unit~~ eligible family household by an employer's health insurance plan shall not preclude other members of the ~~assistance-unit~~ eligible family household from receiving the additional 24 months of medical assistance; and

(2) an ~~assistance-unit~~ eligible family household with dependent children which, using the limits and methodologies contained in Title IV-A, would not be eligible for cash assistance under Title IV-A as a result of the collection of child or spousal support under Title IV-D of the federal Social Security Act, 42 U.S.C. 651 et seq., shall receive an additional four consecutive months of medical assistance beginning with the first month of ineligibility under the provisions of Title IV-A.

Source: 4:10-38.

COMMENT

The draft provision is substantially identical to the source.

3-14. Subsidy for campus-based child care

A community college which provides campus-based child care and any work activity to a recipient as part of that recipient's individual responsibility plan pursuant to N.J.S. 4:10-62, shall receive a subsidy for the provision of child care from the commissioner in accordance with regulations adopted by the commissioner.

Source: 44:10-39.

COMMENT

The draft provision is substantially identical to the source.

3-15. Certain medical assistance allowed

a. Single adults and couples without dependent children shall not be eligible for medical assistance for inpatient or outpatient hospital care or long-term care under the program, except that medical assistance shall be provided for the following, in accordance with regulations adopted by the commissioner:

(1) inpatient hospitalization costs for a recipient of general public assistance pursuant to N.J.S. 44:8-107 et seq. [JC: ultimately this will be a cite to our new numbered provisions] who is admitted to a special hospital licensed by the Department of Health and Senior Services which is not eligible to receive a charity care subsidy from the Health Care Subsidy Fund established pursuant to N.J.S. 26:2H-18.51 et al, and to which payments were made prior to July 1, 1991, on behalf of patients receiving general public assistance;

(2) nursing home costs for a person residing in a non-Medicaid certified nursing facility prior to July 1, 1995, whose income is above the Medicaid institutional cap and who does not otherwise qualify for State-funded nursing home care as a medically eligible person pursuant to N.J.S. 30:4D-1 et seq., to be paid for out of a separate account from the Medicaid program; which assistance shall continue until the person is no longer eligible for long-term care; and

(3) nursing home costs for an alien residing in a Medicaid certified nursing facility prior to the effective date of this act who is not Medicaid-eligible under Pub. L. 104-193; which assistance shall continue until the person is no longer eligible for long-term care.

b. The provisions of this section shall not affect the eligibility of a single adult or a couple without dependent children for the New Jersey FamilyCare Health Coverage Program established pursuant to N.J.S. 30:4J-4.

Source: 44:10-40.

COMMENT

The draft is substantially like its source. Subsection (b) was added in 2000.

3-16. Signing application for benefits constitutes assignment of child support rights

a. The signing of an application for benefits under the Work First New Jersey program shall constitute an assignment of any child support rights pursuant to Title IV-D on behalf of individual ~~assistance-unit~~ eligible family household members to the county agency. the assignment shall terminate with respect to current support rights when a determination is made by the county agency that the person in the ~~assistance-unit~~ eligible family household is no longer eligible for benefits. The determination of the amount of repayment to the county agency and distribution of any unpaid support obligations that have accrued during the period of receipt of benefits shall be determined by regulation of the commissioner in accordance with federal law.

b. An ~~assistance-unit~~ eligible family household eligible for benefits and in receipt of child support shall receive, in addition to its regular grant of cash assistance benefits, an amount up to \$50 per month based on the amount of current child support received for that month. If the amount of child support received is less than \$50, the ~~assistance-unit~~ eligible family household shall receive that amount. If the amount of child support received is \$50 or more, the ~~assistance-unit~~ eligible family household shall receive \$50.

Source: 44:10-49.

COMMENT

The draft provision is substantially identical to the source.

3-17. No increase in benefits due to birth of a child; exceptions

a. The level of cash assistance benefits payable to an ~~assistance-unit~~ eligible family household with dependent children shall not increase as a result of the birth of a child during the period in which the ~~assistance-unit~~ eligible family household is eligible for benefits, or during a temporary period in which the ~~assistance-unit~~ eligible family household is ineligible for benefits pursuant to a penalty imposed by the commissioner for failure to comply with benefit eligibility requirements, after which the ~~assistance-unit~~ eligible family household is again eligible for benefits.

b. The provisions of subsection (a) shall not apply to medical assistance pursuant to N.J.S. 30:4D-1 et seq. or to food stamp benefits, pursuant to the federal "Food Stamp Act of 1977," 7 U.S.C. sect. 2011 et seq., provided to an ~~assistance-unit~~ eligible family household.

c. For an ~~assistance-unit~~ eligible family household with dependent children in which the adult or minor parent recipient gives birth to an additional child during the period in which the ~~assistance-unit~~ eligible family household is eligible for benefits, or during a temporary penalty period of ineligibility for benefits after which the ~~assistance-unit~~ eligible family household again becomes eligible for benefits, the commissioner shall provide that in computing the amount of cash assistance benefits to be granted to the ~~assistance-unit~~ eligible family household, the following shall be deducted from the monthly earned income of each employed person in the ~~assistance-unit~~ eligible family household:

(1) those earned income disregards provided for in N.J.S. 44:10-37; and

(2) after application of the earned income disregards, the total countable income shall be compared for eligibility purposes and subtracted for cash assistance benefit calculation purposes from the eligibility standard for the ~~assistance-unit~~ eligible family household size, adjusted to include any person for whom cash assistance has not been received due to the application of subsection (a) provisions.

d. This section shall not apply to a woman in an ~~assistance-unit~~ eligible family household with dependent children who gives birth to a child fewer than 10 months after applying for and receiving cash assistance benefits.

e. This section shall not apply to the birth of a child that occurs as a result of rape or incest.

Source: 44:10-61.

COMMENT

The draft provision is substantially like the source. Language has been simplified and in subsection (e), the word “woman” replaces “individual” as the only individual who gives birth is a woman. One subsection has been deleted.

3-18. Adult recipient required to seek work; assignment to work activity; exceptions; prohibited job placements

a. Each adult recipient shall continuously and actively seek employment, as the commissioner defines it, in an effort to remove the recipient’s ~~assistance-unit~~ eligible family household from the program. The commissioner may assign a recipient to a work activity. The recipient shall sign an individual responsibility plan as provided in subsection (f) of this section, in order to participate in the program. The plan shall state the terms of the work activity requirements that the recipient must fulfill in order to receive benefits.

b. In accordance with Pub. L. 104-193, a recipient in an ~~assistance-unit~~ eligible family household with dependent children shall begin a work activity, self-directed job search or other activities which the commissioner determines, prior to having received 24 months of benefits; except that if the recipient is a full-time post-secondary student in a course of study related to employment as defined by regulation, the recipient shall be required to do another work activity for no more than 15 hours a week, subject to the recipient satisfactorily progressing toward completion of the post-secondary course of study.

c. A recipient shall comply with work activity requirements in order to remain eligible for benefits. For two-parent ~~assistance-units~~ eligible families households with dependent children receiving benefits, the participation rate shall be 90%. The participation rate shall be calculated in accordance with federal requirements. A recipient may be required to participate in one or more work activities for a maximum aggregate hourly total of 40 hours per week.

d. A recipient shall not be required to engage in a work activity if child care, including the unavailability of after-school child care for children over six years of age, is unavailable for the recipient’s dependent child.

e. The commissioner may allow a recipient to temporarily be deferred from work activity requirements if the recipient is:

- (1) a woman in the third trimester of pregnancy;
- (2) a person certified by an examining physician to be unable, by reason of a physical or mental defect, disease or impairment, to engage in any gainful occupation for any period less than 12 months; or
- (3) the parent or relative of a child younger than 12 weeks who is providing care for that child, except that, the deferral may be extended for an appropriate period of time if medically necessary for the parent or child.

f. After being determined eligible for benefits, each adult recipient who is not deferred or exempted under this act shall be assessed for potential and readiness for work, including, but not limited to, skills, education, past work experience and any barriers to securing employment, and, as appropriate, a screening and assessment for substance abuse. For all recipients who are not deferred or exempt, the county or municipal welfare agency and the recipient jointly shall develop an annual individual responsibility plan specifying the steps that will be taken by each to assist the recipient to secure employment. The plan shall include specific goals for each adult member or minor parent in the ~~assistance unit~~ eligible family household, and may include specific goals for a dependent child member of the ~~assistance unit~~ eligible family household. The goals, set by regulation, shall include, but not be limited to, requirements for parental participation in a dependent child's primary school program, immunizations for a dependent child, and regular school attendance by a dependent child. Recipients who are job ready shall be placed immediately in a self-directed job search. Within the limits of the amount of funds allocated by the commissioner, other recipients shall be placed in appropriate work activities according to their individual assessments.

g. The county or municipal agency shall ensure necessary case management for recipients, appropriate to their degree of job readiness, according to regulations. The most intensive case management shall be directed to recipients facing the most serious barriers to employment.

h. A recipient:

(1) shall not be placed in a position at a particular workplace:

(a) that was previously filled by a regular employee if that position, or a substantially similar position at that workplace, has been made vacant through a demotion, substantial reduction of hours or a layoff of a regular employee in the previous 12 months, or has been eliminated by the employer during the previous 12 months;

(b) in a manner that infringes upon a wage rate or an employment benefit, or violates the contractual overtime provisions of a regular employee at that workplace;

(c) in a manner that violates an existing collective bargaining agreement or a statutory provision that applies to that workplace;

(d) in a manner that supplants or duplicates a position in an existing, approved apprenticeship program;

(e) by or through an employment agency or temporary help service firm as a community work experience or alternative work experience worker;

(f) if there is a contractual or statutory recall right to that position at that workplace; or

(g) if there is an ongoing strike or lockout at that workplace.

(2) A person who believes to have been adversely affected by a violation of this subsection, or the organization duly authorized to represent the collective bargaining unit to which that person belongs, shall be given an opportunity to meet with a designee of the Commissioner of Labor or the Governor's Office of Employee Relations.

The designee shall attempt to resolve the complaint of the alleged violation within 30 days of the date of the request for the meeting. If the complaint is not resolved within the 30-day period, the complainant may appeal to the New Jersey State Board of Mediation in the Department of Labor for expedited binding arbitration in accordance with the rules of the Board. If the arbitrator finds that a violation has occurred, the arbitrator shall provide an appropriate remedy. Both parties to the dispute shall bear equally the cost of the arbitration.

(3) Nothing in this subsection shall prevent a collective bargaining agreement from containing additional protections for a regular employee.

i. The Commissioner of Labor, acting in conjunction with the Commissioners of Banking and Insurance, Commerce and Economic Development, Community Affairs, Education, Health and Senior Services, Human Services, Labor and Transportation, shall implement all elements of the program and establish initiatives to help move recipients toward self-sufficiency.

j. The commissioner shall take necessary actions to ensure that the program meets the requirements to qualify for the maximum amount of federal funds due the State under Pub. L. 104-193.

Source: 44:10-62.

COMMENT

The draft streamlines the language of the source and omits, as unnecessary because executed, requirements that were set for the years between 1997 and 2002 in subsection c.

3-19. Primary responsibility for support; benefits eligibility

a. All adult persons, except as otherwise provided in the Work First New Jersey program, are charged with the primary responsibility of supporting and maintaining themselves and their dependents; the primary responsibility for the support and maintenance of minor children is that of the parents and family of those children; and benefits shall be provided only when other means of support and maintenance are not present to support the ~~assistance-unit~~ eligible family household.

b. Benefits shall be temporary and serve the primary goal of fostering self-sufficiency. Failure to cooperate with any of the program eligibility requirements without good cause, as determined by the commissioner, shall result in ineligibility for benefits for some or all ~~assistance-unit~~ eligible family household members.

c. If the county or municipal public assistance agency determines, from an applicant's written statement signed under oath, that the applicant needs benefits immediately because the applicant's available resources are insufficient, according to the commissioner, to meet minimal current living expenses pursuant to regulations adopted by the commissioner, of the applicant's ~~assistance-unit~~ eligible family household, the county or municipal agency shall issue cash assistance benefits to the applicant on the date of application, subject to the applicant's meeting all other program eligibility requirements.

d. The commissioner shall establish by regulation, standards and procedures to screen and identify recipients with a history of being subjected to domestic violence and

refer these recipients to counseling and supportive services. The commissioner may waive program requirements, including, but not limited to, the time limit on benefits pursuant to N.J.S. 44:10-72, residency requirements pursuant to N.J.S. 44:10-60, child support cooperation requirements pursuant to N.J.S. 44:10-45, and the limitation on increase of cash assistance benefits as a result of the birth of a child pursuant to N.J.S. 44:10-61, in cases where compliance with such requirements would make it more difficult for a recipient to escape domestic violence or unfairly penalize the recipient who is or has been victimized by such violence, or who is at risk of further domestic violence.

Source: 44:10-59.

COMMENT

The draft is substantially like the source, but omits as unnecessary because already executed, subsection (e) which states that the commissioner shall establish regulations.

3-20. Benefits requirements for persons younger than 18 years with a dependent child

a. If an applicant or recipient is younger than 18 years, has never married, and is pregnant or is caring for a dependent child, the applicant or recipient shall be required, as a condition of eligibility for benefits for the applicant or recipient and the applicant's or recipient's dependent child to:

(1) reside in a home maintained by, and have the benefits paid to, the applicant's or recipient's parent, legal guardian, or other adult relative; and

(2) engage in a work activity if the applicant or recipient has completed secondary education.

b. The commissioner shall exempt from the provisions of paragraph (1) of subsection (a) of this section an applicant or recipient who the commissioner determines during the application or eligibility redetermination process to present evidence that the parent, legal guardian or other adult relative with whom the applicant or recipient would be required to reside in order to be eligible for benefits:

(1) refuses or is unable to allow the applicant or recipient, or that person's dependent child, to reside in that adult's home;

(2) poses a threat to the emotional health or physical safety of the applicant or recipient;

(3) has physically or sexually abused the applicant or recipient, or the applicant's or recipient's dependent child, or poses a risk of doing so; or

(4) has exhibited neglect with respect to the needs of the applicant or recipient and the applicant's or recipient's dependent child.

In determining to exempt an applicant or recipient who is younger than 18 years pursuant to this subsection, the commissioner shall get information directly from that applicant or recipient when there has been any known circumstance or incident of physical or sexual abuse, or upon the applicant's or recipient's request.

c. For an applicant or recipient and the applicant's or recipient's dependent child who are exempted from the requirements of subsection (a)(1), in accordance with subsection (b), the county agency, pursuant to the commissioner's guidelines, shall determine the most appropriate living arrangements in the best interest of the applicant or recipient and the applicant's or recipient's dependent child.

d. The commissioner shall exempt from the provisions of subsection (a)(2) an applicant or recipient whom the commissioner determines by assessing the person's ability and aptitude, to lack a reasonable prospect of successfully completing the academic requirements of a high school or equivalency program of study.

e. The commissioner also may exempt an applicant or recipient from the provisions of subsection (a) if the commissioner determines the exemption to be in the best interest of the applicant or recipient and the applicant's or recipient's dependent child.

f. The commissioner shall arrange an appropriate appeal mechanism for an applicant or recipient to present evidence that would provide the basis for an exemption.

Source: 44:10-60.

COMMENT

The draft provision streamlines the language of the source.

3-21. Noncompliance to result in loss of certain cash benefits.

The failure of a recipient to actively cooperate with the program or participate in work activities without good cause as the commissioner determines, shall result in a loss of cash assistance benefits:

a. For a first offense:

(1) In an ~~assistance-unit~~ eligible family household with a single adult or couple without dependent children or a single adult with dependent children, the person in noncompliance shall be subject to a loss of cash assistance benefits for a minimum of one month. If the person in noncompliance does not evidence an intent to comply, as defined by regulation, by the end of the one-month period, continued suspension of cash assistance benefits for the person shall remain in effect for up to two more months. If the person in noncompliance does not evidence an intent to comply by the end of the third month, the ~~assistance-unit's~~ eligible family's household's case shall be closed for cash assistance benefits, and a reapplication shall be required by the ~~assistance-unit~~ eligible family household in order to receive cash assistance benefits.

(2) In a two-parent ~~assistance-unit~~ eligible family household with dependent children, if one parent is in noncompliance, the needs of the parent in noncompliance shall be deleted from the cash assistance benefits provided to the ~~assistance-unit~~ eligible family household for a minimum of one month when the other parent is not otherwise participating in a work activity, or is not otherwise exempt as the commissioner determines. If the parent in noncompliance does not evidence an intent to comply, as defined by regulation, by the end of the one-month period, continued suspension of cash assistance benefits for the parent shall remain in effect for up to two

more months. If the parent in noncompliance does not evidence an intent to comply by the end of the third month, the ~~assistance-unit's~~ eligible family's household's case shall be closed for cash assistance benefits, and a reapplication shall be required by the ~~assistance-unit~~ eligible family household in order to receive cash assistance benefits.

(3) If the noncompliance is due to the inaction of a minor parent in the ~~assistance-unit~~ eligible family household, the needs of the minor parent and minor parent's spouse, if any, in the ~~assistance-unit~~ eligible family household shall be deleted from the cash assistance benefits provided to the ~~assistance-unit~~ eligible family household for a minimum of one month. If the minor parent in noncompliance does not evidence an intent to comply by the end of the first-month period, suspension of the cash assistance benefits shall remain in effect for up to two additional months. If the minor parent in noncompliance does not evidence an intent to comply by the end of the third month, the minor parent and the minor parent's spouse, if any, in the ~~assistance-unit~~ eligible family household, as well as the dependent child of the minor parent in the ~~assistance-unit~~ eligible family household, shall be excluded from the ~~assistance-unit~~ eligible family household for a cash assistance benefits.

(4) A dependent child aged 16 years or older who fails to comply with the requirement for school attendance or other work activity pursuant to this act shall be subject to a loss of cash assistance benefits for one month. If the dependent child does not evidence an intent to comply by the end of the one-month period, cash assistance benefits shall be suspended for that person for up to two additional months. If the dependent child does not evidence an intent to comply by the end of the third month, the dependent child shall be excluded from the ~~assistance-unit~~ eligible family household for cash assistance benefits.

b. For a second offense:

(1) In an ~~assistance-unit~~ eligible family household with a single adult or couple without dependent children or a single adult with dependent children, the person in noncompliance shall be subject to a loss of cash assistance benefits for a minimum of one month. If the person in noncompliance evidences an intent to comply, as defined by regulation, by the end of the one-month period, only that person's needs shall be deleted from the cash assistance benefits provided to the ~~assistance-unit~~ eligible family household for the following month. If the person in noncompliance by the end of the one-month period does not evidence an intent to comply, the entire ~~assistance-unit~~ eligible family household shall be subject to a loss of cash assistance benefits for the following month. If the person in noncompliance by the end of the second month does not evidence an intent to comply, the ~~assistance-unit's~~ eligible family's household's case shall be closed for cash assistance benefits, and a reapplication shall be required by the ~~assistance-unit~~ eligible family household in order to receive cash assistance benefits.

(2) In a two-parent ~~assistance-unit~~ eligible family household with dependent children, if one parent is in noncompliance, the needs of the parent in noncompliance shall be deleted from the cash assistance benefits provided to the ~~assistance-unit~~ eligible family household for a period of one month when the other parent is not otherwise participating in a work activity, or is otherwise determined exempt by the commissioner. If the parent in noncompliance does not evidence an intent to comply, as

defined by regulation, by the end of the one-month period, the entire ~~assistance unit~~ eligible family household shall be subject to a loss of cash assistance benefits for the following month. If the person in noncompliance by the end of the second month does not evidence an intent to comply, the ~~assistance unit's~~ eligible family's household's case shall be closed for cash assistance benefits, and a reapplication shall be required by the ~~assistance unit~~ eligible family household in order to receive cash assistance benefits.

(3) If the noncompliance for a second offense is due to the inaction of a minor parent in the ~~assistance unit~~ eligible family household, the needs of the minor parent and the minor parent's spouse, if any, in the ~~assistance unit~~ eligible family household shall be deleted from the cash assistance benefits provided to the ~~assistance unit~~ eligible family household for a minimum of one month. If the minor parent in noncompliance, by the end of the one-month period, does not evidence an intent to comply, the minor parent and the minor parent's spouse, if any, in the ~~assistance unit~~ eligible family household, as well as the dependent child of the minor parent in the ~~assistance unit~~ eligible family household, shall be subject to a loss of cash assistance benefits for the following month. If the minor parent in noncompliance, by the end of the second month, does not evidence an intent to comply, the minor parent and the minor parent's spouse, if any, in the ~~assistance unit~~ eligible family household, as well as the dependent child of the minor parent in the ~~assistance unit~~ eligible family household, shall be excluded from the ~~assistance unit~~ eligible family household for cash assistance benefits.

(4) A dependent child 16 years or older who is in noncompliance with the requirement for school attendance or other work activity pursuant to this act shall be subject to a loss of cash assistance benefits for a minimum of two months. If the dependent child in noncompliance, by the end of the two-month period, does not evidence an intent to comply, the dependent child shall be excluded from the ~~assistance unit~~ eligible family household for cash assistance benefits.

(5) A person sanctioned pursuant to this subsection shall be counseled by a county or municipal public assistance agency employee prior to reinstatement of eligibility for cash assistance benefits.

c. For a third and subsequent offense:

(1) The person in noncompliance and all other members of the person's ~~assistance unit~~ eligible family household shall be subject to a loss of cash assistance benefits for a minimum of three months. If the person in noncompliance, by the end of the three-month period, does not evidence an intent to comply, the ~~assistance unit's~~ eligible family's household's case shall be closed for cash assistance benefits, and a reapplication shall be required by the ~~assistance unit~~ eligible family household in order to receive cash assistance benefits.

(2) A dependent child 16 years or older who is in noncompliance with the requirement for school attendance or other work activity shall be subject to a loss of cash assistance benefits for a minimum of three months. If the dependent child, by the end of the three-month period, does not evidence an intent to comply, the dependent child shall be excluded from the ~~assistance unit~~ eligible family household for cash benefits.

d. The county or municipal public assistance agency shall maintain a record of the number of sanctions which an ~~assistance-unit~~ eligible family household accrues. The number of sanctions accruing to an ~~assistance-unit~~ eligible family household shall be reduced by one for each continuous 12-month period in which not sanction has been imposed on a member of that ~~assistance-unit~~ eligible family household.

e. An adult recipient who voluntarily quits a job without good cause, as defined by regulation, shall render the entire ~~assistance-unit~~ eligible family household ineligible for cash assistance benefits for a period of two month from the date the county or municipal public assistance agency determines that the recipient quit the job.

Source: 44:10-63.

COMMENT

The draft provision streamlines the language of the source.

3-22. Community, alternative work experience not employment; exceptions

A recipient's participation in a community or alternative work experience provided by a sponsor pursuant to this act shall not be considered employment for any purpose, except that:

a. It shall be regarded as employment for the purposes of the "Law Against Discrimination," N.J.S. 10:5-1 et seq., and the sponsor, not the program, shall be deemed the employer in any action brought under that act;

b. It shall be regarded as employment for the purposes of the "New Jersey Public Employees' Occupational Safety and Health Act," N.J.S. 34:6A-25 et seq., if the sponsor is a public employer subject to that act;

c. It shall be regarded as employment for the purposes of the "Conscientious Employee Protection Act," N.J.S. 34:19-1 et seq., and the "Worker and Community Right to Know Act," N.J.S. 34:5A-1 et seq.;

d. It shall be regarded as employment for the purposes of chapter 15 of Title 34 of the Revised Statutes, subject to the provisions of section 12 of this act; and [JC: I want toward the conclusion of our drafting to get all the citations in the same form if possible]

e. The recipient shall be entitled, to the same degree as any similarly-situated employee of the sponsor, to family leave pursuant to the "Family Leave Act," N.J.S. 34:11B-1 et seq., and family and medical leave pursuant to federal law.

Source: 44:10-65.

COMMENT

The draft provision is substantially like the source.

3-23. Workers' compensation status of recipient participating in community, alternative work

a. For the purposes of chapter 15 of Title 34 of the Revised Statutes, a recipient who participates in a community or alternative work experience shall be regarded as an employee of the State and the sponsor. The State shall provide the recipient and the

dependents of the recipient with all compensation required, and defenses and remedies available, except for:

(1) compensation provided for temporary disability pursuant to subsection (a) of R.S. 34:15-12; and

(2) medical and hospital services provided pursuant to R.S. 34:15-15 unless the recipient becomes ineligible for medical assistance under the “New Jersey Medical Assistance and Health Services Act,” N.J.S. 30:4D-1 et seq.

If the recipient has been subject to an injury or illness producing a temporary disability, the program shall not provide compensation pursuant to subsection (a) of R.S. 34:15-12, but the recipient shall receive cash benefits from the program and shall be deferred from the work activity requirements as provided in subsection (e) of section 8 of N.J.S. 44:10-62. The recipient shall be exempted from the 60-month time limit provided pursuant to N.J.S. 44:10-72 during the first 90 days of each period of temporary disability subject to the provisions of this section.

b. The amount of compensation provided pursuant to chapter 15 of Title 34 of the Revised Statutes for other than temporary disability shall be calculated as if the recipient’s weekly wage was 60% of the statewide average weekly wages earned by all employees covered by the “unemployment compensation law, R.S. 43:21-1 et seq. The program may provide this compensation by purchasing and serving as the master policyholder for any insurance, self-insurance, or an administrative services contract; or by other appropriate means.

c. Compensation which a recipient receives pursuant to chapter 15 of Title 34 of the Revised Statutes for a disability caused by an injury or illness arising out of the community or alternative work experience, and which is permanent in quality and partial or total in character, shall not be regarded as earned income for the purposes of N.J.S. 44:10-37 and there shall not be a disregard for that amount in computing the cash assistance benefit provided to the recipient.

d. Compensation which a dependent of a recipient receives pursuant to chapter 15 of Title 34 of the Revised Statutes for the death of the recipient caused by an injury or illness which arises out of community or alternative work experience shall not be regarded as earned income for the purposes of N.J.S. 44:10-37 and there shall not be a disregard for that amount in computing the cash assistance benefit provided to the dependent.

Source: 44:10-66.

COMMENT

The draft provision streamlines language of the source and breaks the single paragraph of the source into logical subsections.

3-24. Injury, illness, death arising from community, alternative work

a. Any recipient participating in community or alternative work, or dependent of the recipient, who receives compensation, benefits, or both from the State pursuant to N.J.S. 44:10-66 for an injury, illness or death arising out of community or alternative work experience shall surrender any other compensation or benefits from the sponsor or

the State for that injury, illness or death. The sponsor of the recipient, the State and the employees of the sponsor shall not be liable for the injury, illness or death for which the recipient or dependent of the recipient receives the compensation, benefits, or both, except for an intentional wrong.

b. “Sponsor” means a private nonprofit employer, private charitable employer, or public employer that provides a community or alternative work experience to a recipient.

Source: 4:10-67.

COMMENT

The draft provision streamlines the language of the source.

3-25. Tort action against program; reimbursement

a. The sole recourse of a person, other than a recipient or a sponsor, who is injured as a result of an act or omission of a recipient in connection with the recipient’s community or alternative work experience, shall be to file an action against the program.

b. The program shall have available all of the notice requirements and the defenses available to the State under the “New Jersey Tort Claims Act,” N.J.S. 59:1-1 et seq., except that the program shall not have available to it the defense that the recipient is not a public employee.

c. The program shall reimburse the fund established pursuant to N.J.S. 59:12-1 for all costs incurred by the fund in connection with a recipient’s participation in community or alternative work experience.

Source: 4:10-68, 4:10-69.

COMMENT

The draft provision combines the two sources and streamlines their language.

Chapter 4 – Administration

4-1. Reports on Work First New Jersey program

a. The commissioner, in cooperation with other affected agencies of State government, shall report biennially to the Governor and the Legislature on the Work First New Jersey program including in the report any recommendations for changes in the law or regulations governing the program that the commissioner deems necessary to further the goals of the program. The commissioner shall determine the manner and terms of the reporting in accordance with the requirements of federal law.

b. The commissioner shall issue a public report on at least a quarterly basis concerning the number of recipients: in the program, classified as exempt from time limits or deferred from work requirements, classified as to the degree of employability as defined by the commissioner, who have obtained employment, terminated from the program and the reasons for the terminations; and: the average wages and benefits earned by recipients, the types of employment obtained by recipients and whether the

employment is in the public or private sector, the average length of stay in their jobs by recipients who reapply for benefits, and the number of former recipients who have re-entered the program after being terminated.

c. To the extent not provided by subsections (a) or (b), the commissioner shall conduct research appropriate for evaluating the outcomes for recipients, and the benefits, costs and other effects of the program, and shall submit any report resulting from the research to the Governor and the Legislature, and make copies available to the public.

Source: 44:10-41.

COMMENT

The draft provision is substantially like the source except that it omits the final paragraph of the source, as unnecessary as executed (Studying the Michigan Civilian Conservation Corps program and submitting a report to the Governor and Legislature by January 1, 1998).

4-2. Updating standard of need

a. The commissioner annually shall update the regulation establishing a standard of need.

b. The standard of need shall serve only as a benchmark against which the Legislature may decide on appropriations to fund cash assistance benefits to recipients.

Source: 44:10-42.

COMMENT

The draft is substantially identical to the source.

4-3. Disclosure of applicant's information

a. Information concerning applicants or recipients shall not be disclosed except for purposes directly connected with the administration of the program, in accordance with regulations adopted by the commissioner. Any person or entity under contract to provide services to the program shall comply with these regulations.

b. The provisions of this section shall not prohibit the exchange of information among agencies, organizations or other entities as prescribed by the commissioner or pursuant to federal requirements.

Source: 44:10-47.

COMMENT

The draft provision is substantially like the source.

4-4. Waiving compliance with Work First New Jersey program for certain projects

a. For an experimental, pilot or demonstration project that the commissioner judges will likely assist in promoting the objectives of the Work First New Jersey program, or to promote the objectives of the Title IV-D child support enforcement program in the State, the commissioner may waive compliance with the requirements of the WFNJ program to the extent the commissioner deems necessary to carry out the project and for a period of time not exceeding three years, during which time the

commissioner shall report the project's progress to the Legislature at least every six months.

b. However, the commissioner shall not waive compliance with the provisions of N.J.S. 44:10-62 or implement a pilot or demonstration project that circumvents or obstructs a collective bargaining agreement.

c. The commissioner shall provide an opportunity for public comment prior to the project's implementation.

d. The commissioner shall establish any appropriate fiscal or evaluative terms and conditions for the project.

Source: 44:10-53.

COMMENT

The draft is substantively like the source, but streamlines and organizes the content.

4-5. County agency implementation of ~~WFNJ~~ TAEH program

a. The county agency shall be responsible for implementing the ~~Work-First New Jersey~~ Temporary Assistance to Eligible Households program in accordance with regulations adopted by the commissioner and ensuring that all eligible persons residing in the county have access to benefits, except as this subsection provides otherwise.

b. The administration by county agencies of the program for eligible single persons and couples without dependent children commenced January 1, 1998, in accordance with a schedule determined by the commissioner for the respective geographic areas of the State.

(1) The State, in accordance with procedures established by the commissioner, shall reimburse the county for 100% of the administrative costs incurred by the county agency regarding provision of cash assistance benefits to the eligible single adults and couples without dependent children residing in a municipality which has transferred its administration of general public administration to the county, up to the maximum amount allocated for that county by the commissioner within the limits of available funds.

(2) For a municipality which has opted to continue administering general public assistance pursuant to paragraph (1) of subsection (a), the commissioner is authorized to: provide for issuance of cash assistance benefits, in accordance with regulations, by paper check, electronic benefit distribution, or other appropriate means; and to require the municipality to report information to the commissioner which the commissioner deems necessary for proper administration of the program through electronic means, as prescribed by regulation.

Source: 44:10-73.

COMMENT

The draft provision omits two current subsections, (a)(6) and (d), as unnecessary as executed.

4-6. Municipal administration of general public assistance program

a. A municipality may continue to administer general public assistance for eligible single persons and couples without dependent children through the program and fund the administrative costs, if the municipality passed a resolution no later than six months after the commissioner adopted regulations effecting these provisions. The resolution shall have included the reasons for the governing body's decision to administer the program, and a copy of the resolution shall have been filed with the Division of Local Government Services in the Department of Community Affairs within three days of its passage.

b. The Division of Local Government Services in the Department of Community Affairs shall not include the municipality's general public assistance budget in its budget review and approval process.

c. A municipality that administers general public assistance pursuant to the provisions of paragraph (1) of this subsection shall be responsible for all administrative costs of providing benefits to eligible single persons and couples without dependent children. The State shall reimburse the municipality for 100% of cash assistance benefits paid to recipients of general public assistance.

d. if a municipality fails to comply with the provisions of paragraph (1) of this subsection, the commissioner is authorized to require the transfer of its administration of general public assistance to the county.

e. If the commissioner determines by financial or performance audit that a municipality has failed to administer benefits pursuant to this subsection in accordance with standards established by regulation of the commissioner, the commissioner is authorized to: take appropriate action pursuant to N.J.S. 30:1-12.2; recoup any funds identified by that audit, and require the transfer by the municipality of its administration of general public assistance to the county. Prior to effecting the transfer, the commissioner shall specify in writing to the municipality the financial or performance deficiencies determined by the audit and give the municipality a reasonable opportunity to correct those deficiencies, in accordance with regulations. If the municipality fails to correct the deficiencies, the commissioner may proceed with the transfer.

Source: 44:10-73.

COMMENT

The draft provision omits two current subsections, (a)(6) and (d), as unnecessary as executed.

4-7. Agencies to supply information to the commissioner

The county and municipal welfare agencies, and any other State, local, public or private entity or person working with the department, county agency or municipal public assistance agency to effect this act, shall collect and give on a timely basis to the commissioner any information the commissioner requests on the program's operation and administration.

Source: 44:10-73.

COMMENT

The draft provision omits two current subsections, (a)(6) and (d), as unnecessary as executed.

4-8. Allocation of federal funding

a. The commissioner shall allocate among the counties the federal funding available for administrative costs from the federal block grant funds for temporary assistance for eligible ~~families~~ households provided to New Jersey under Pub. L. 104-193. The administrative costs incurred by the county agency with respect to recipients with dependent children shall be reimbursed by the State at the rate of 50% of total administrative costs, up to the maximum amount allocated for that county by the commissioner within the limits of available funds. The county shall fund the remaining administrative costs. The county's share of cash assistance benefits to recipients with dependent children shall be 5% of total cash assistance benefits costs, and the remaining 95% shall be funded by the State and federal governments.

b. The State shall reimburse the county agency for 100% of cash assistance benefits paid to or on behalf of recipients who are single adults or couples without dependent children.

c. The commissioner shall allocate among the counties the funding available for work activities as defined in N.J.S. 44:10-57, and case management activities applicable to work activities, from State appropriations and federal block grant funds for temporary assistance for eligible ~~families~~ households provided to the State pursuant to Pub. L. 104-193. Costs incurred by the counties for work activities and case management shall be reimbursed up to the maximum amount allocated for the county by the commissioner, and within the limits of available funds.

Source: 44:10-74.

COMMENT

The draft provision is substantially like the source but has substituted "households" for "families."

4-9. Implementation of electronic benefit distribution system

a. The department shall implement the electronic benefit distribution system established pursuant to N.J.S. 44:10-5.1 et seq. in every county of the State.

b. All cash assistance and food stamp benefits shall be provided through the issuance of a single benefit card utilizing the electronic benefit distribution system. The commissioner shall have discretion to include additional programs in this system.

c. No charge, including a fee imposed by a terminal owner, shall be imposed upon a person receiving cash assistance, food stamp or other benefits for participating in the electronic benefit transfer system, except as follows:

(1) after three free cash automatic teller machine withdrawals in a month, the department may deduct a transaction fee from a recipient's account for each subsequent withdrawal; and

(2) a recipient shall be required to pay a fee for a replacement benefit card in an amount determined by the commissioner, which may be deducted from the recipient's account in accordance with federal law.

d. A retail establishment currently authorized to participate in the federal food stamp program, or the New Jersey Supplementary Food Stamp Program established pursuant to N.J.S. 44:10-79 et al, shall be given the opportunity to participate in the electronic benefit distribution system.

e. The Department of Human Services shall cycle the issuance of benefits over multiple dates throughout the month in a manner that best serves [AFDC] and food stamp recipients within the framework of the electronic benefit distribution system in each county.

f. The commissioner shall have the discretion to determine the need for appropriate benefit card security measures, as well as whatever personal identification technology is included on the benefit card, to access cash assistance, food stamp or other benefits under the electronic benefit distribution system.

Source: 44:10-5.6, 44:10-75.

COMMENT

The draft omits the source subsection (c)(3) which explicitly states that it will expire two years after the “effective date of the single Statewide electronic benefits distribution contract that is let pursuant to N.J.S. 44:10-71 et al (1997). The draft substitutes a newer provision, 44:10-5.6 (1991), for the similar source subsection (c).

4-10. Social security number used as common identifier of individuals

The federal Social Security number shall be used as the common identifier of individuals for any record, license, certificate or other document identifying a person by name which is used by an agency of State government in accordance with the requirements of federal law.

Source: 44:10-76.

COMMENT

The draft omits the last sentence of the source which requires the agencies to implement the section by July 1, 1998.

4-11. Establishment, implementation of technological investment

The commissioner, in consultation with the State Treasurer, is authorized to establish and implement necessary technological investments appropriate to create a Statewide community-based electronic network designed to link federal, State and local government agencies, nonprofit entities and private business entities, for the effective exchange of information relating to, and management of, the Work First New Jersey program and other related programs.

Source: 44:10-77.

COMMENT

The draft provision is substantially like the source.

4-12. Municipal agency

a. Each municipality that administers a general public assistance program shall have an agency to conduct the program.

b. A Municipal Director of Public Assistance shall be appointed to hold office for five years. In case of a vacancy, a temporary acting Director may be appointed to serve for up to ninety days.

c. A municipality shall determine the staffing for its public assistance agency. All staff shall have the qualifications required by State regulations.

Source: New, 44:8-145.1, 44:1-74, 44:8-117, 44:8-117.1.

COMMENT

Archaic provisions remain in Title 44 regarding appointment (44:1-73) and abolishment (44:1-73.1) of municipal overseers of the poor. The draft provision takes into account the 1995 law, 44:8-145.1, which allows a municipality in agreement with its county to transfer its financial and operational responsibility for the administration of the “Work First New Jersey Public Assistance Act” (WFNJ-PA) to the county agency. The municipal agency is then abolished.

Subsection (b) combines and streamlines 44:1-74, 44:8-117. It ignores 44:8-115, a 1947 provision that specifies that a “local assistance board shall be composed of three or five persons ... and at least one of them shall be a woman.” Subsection (c) is derived from 44:8-117.1. The provision allows staffing for all public assistance functions performed by the agency.

4-13. County agency

a. Every county shall have an agency to administer state and federal public assistance programs and other public assistance, as conditions require.

b. The agency shall have a staff in accordance with regulations of the commissioner.

Source: New.

COMMENT

Numerous existing provisions mandate the public policy of the State: “[E]very needy person shall ... be entitled to receive such public assistance as may be appropriate” (44:8-109), “The State shall provide ... public assistance to the persons eligible therefore” (44:8-114), “Immediate public assistance shall be rendered promptly to any needed person” (44:8-120), et al.

Pursuant to the federal “Personal Responsibility and Work Opportunity Reconciliation Act of 1996,” 42 U.S.C. Sect. 601 et seq., New Jersey adopted its “Work First New Jersey Act” in 1997, which replaced earlier aid/assistance to dependent children laws. It provides that “The county agency shall be responsible for implementing the Work First New Jersey program in accordance with regulations adopted by the commissioner and ensuring that all eligible persons residing in the county have access to benefits” N.J.S. 44:10-73(a). The Act further states, “The commissioner shall allocate among the counties the federal funding available for administrative costs from the federal block grant funds for temporary assistance for needy families provided to New Jersey” N.J.S. 44:10-74(a). The draft provision states explicitly at the outset that the county level is responsible for administering federal and state funds. Subsection (a) also provides for additional assistance as needed.

4-14. Establishment of board to direct agency

A county that has not undergone charter reform pursuant to N.J.S. 40:41A. shall establish either a County Board of Social Services, or a County Public Assistance Board, to direct its agency's program.

Source: New, 44:1-10, 44:1-10.1, 44:1-10.2.

COMMENT

The beginning of the provision is new and reflects the decision in Am. Fed. State, Cty. Mun. Emp. v. Hudson Welfare Board., 141 N.J. Super. 25, 34 (Ch. Div. 1976): the Optional County Charter Act, N.J.S. 40:41A-1 et seq. authorizes a county to abolish and reorganize its welfare board as long as the replacement provides the same functions as before. Six of New Jersey's 21 counties have undergone charter reform. The proposed provision substitutes "program" for "welfare-house" in source provision 44:1-10 and acknowledges the 1979 provisions, 44:1-10.1 and 44:1-10.2, which allow a name change for the board, and eliminate the need for stating that wherever one name appears it shall mean the other as well.

4-15. Membership of board

a. The county shall appoint between five and seven persons who reside in the county to be members of the agency board. An agency board member may hold another office.

b. Two members of the county government, and the county adjuster, unless the county adjuster is an employee of the agency board, in addition to the five to seven appointees, shall be ex officio members of the agency board.

Source: 44:1-11.

COMMENT

Streamlines the source provision.

4-16. Term; vacancies; compensation and expenses

a. Members shall serve for five years.

b. Vacancies shall be filled for the unexpired term only.

c. Members shall not receive payment for their services but shall be reimbursed for their expenses.

Source: 44:1-12, 44:1-13.

COMMENT

This provision is substantively like the source provisions.

4-17. Funding; annual report

a. All board expenditures shall be subject to approval by the county government.

b. The agency board annually shall report to the county government. The report shall include, but need not be limited to, information about financial management, expenditures, other operations of the program, the number of persons the program serves, and recommendations.

Source: 44:1-20, 44:1-23.

COMMENT

Subsection (a) is substantially identical to its source, 44:1-20. Subsection (b) follows its source, 44:1-23, but allows inclusion of unenumerated information.

4-18. Public assistance director; appointment of assistant director

a. Each county public assistance program shall be headed by a director.

b. Each county public assistance director may appoint a person to serve as assistant county public assistance director for general public assistance or to another supervisory position of responsibility for administering general public assistance in the county.

Source: New, 44:8-145.2.

COMMENT

Subsection (a) is new. Subsection (b) is substantively like the 1995 source provision.

4-19. Allocation of functions, powers and duties

The county public assistance director is authorized to allocate the functions, powers and duties of any municipal public assistance agency in the county transferred to the county, among the offices in the county public assistance agency.

Source: 44:8-145.3.

COMMENT

Substantively identical to the source provision.

4-20. Service and remuneration of transferred employees; services to municipal agency

a. The transfer to the county public assistance agency of a person who was a full-time employee of a municipal public assistance agency, or who worked on a full-time basis for municipal public assistance agencies in two or more municipalities, on the effective date of P.L. 1995, c. 259, shall not result in reduction of remuneration nor in the length of service credited to that employee.

b. A county and municipality may arrange by mutual agreement for one or more former municipal public assistance agency employees employed by the county welfare agency to continue to provide services from a municipal building.

Source: 44:8-145.4.

COMMENT

Substantively identical to the source provision.

4-21. Duties of public assistance director

The director of public assistance of a municipality, or the county director shall:

- a. Supervise investigation of every person receiving public assistance by monthly visitation;
- b. Reconsider monthly the amount and type of public assistance given, and alter or suspend the assistance, as circumstances require;
- c. Find ways to effect self-support for persons unable to maintain themselves, or find other persons or agencies able and willing to support those persons;
- d. Keep records in the form required by the commissioner of investigation, supervision, assistance, rehabilitation, and certifications of persons for employment or benefits, and cancellations of them; and
- e. Initiate action for commitment to a State or county institution of eligible persons whose best interests would be served by commitment.

Source: 44:8-118.

COMMENT

Streamlines the language of the source. By amendment in 1995, the county director was added to the statute.

4-22. Municipality or county pays administrative costs

- a. A municipality or county shall pay the cost of public assistance administration within the municipality or county.
- b. The State shall pay none of the administrative cost except as provided when the State has taken over a municipality's administration of public assistance

Source: 44:8-137.

COMMENT

Substantially like the source.

4-23. Public assistance trust fund account

- a. Every payment for State aid for public assistance made to a municipality or county shall be deposited in a public assistance trust fund account and shall be used only for payment of the cost of public assistance, exclusive of administrative costs, and in the year for which the State aid is granted.
- b. Any balance remaining in the account after all payments have been made or provided for, shall be used for the same purpose and with the same limitation for the next year.

Source: 44:8-138.

COMMENT

The draft extends the provision to include the county.

4-24. Transfer of current budget appropriation for public assistance

A municipality or county receiving State aid for relief for any year shall not transfer the current year's budget appropriation for public assistance to any other current budget appropriation.

Source: 44:8-139.

COMMENT

The draft extends the provision to include the county.

4-25. Exploitation of recipients prohibited

Municipal or county public assistance agencies are prohibited from directly or indirectly exploiting or permitting to be exploited public assistance recipients for political purposes.

Source: 44:8-126.

COMMENT

The draft adds county public assistance agencies; the source mentions only the municipal ones.

4-26. Distribution of voter registration forms and instructions

The director or other chief administrative officer of each agency or officer administering assistance under the Work First New Jersey program shall:

a. Cause each assistance agency or office to provide copies of voter registration forms, instructions and declination forms to each person who applies in person for services or assistance, or to seek a recertification, renewal or change of address.

(1) An employee of the agency or office shall ask each person whether the person, if not already registered to vote from the place of present residence, wishes to be registered, and shall state that choosing to register or not to register will not affect eligibility for services or assistance.

(2) The employee shall review the forms to determine whether or not the person wishes to register to vote.

(a) If the person does not wish to register, the employee shall assist the person in completing the declination form and tell the person that the employee will retain the form.

(b) If the person wishes to register, the employee shall assist the person in completing the voter registration form; shall tell the applicant that the applicant may leave the completed form with the employee or may mail it to the Secretary of State; and if the applicant leaves the form, shall accept it, stamp or mark its lower right hand corner with the date received, and forward it to the Secretary of State. The employee shall give each applicant who registers to vote the same degree of assistance in completing the voter registration form as the agency or office provides for completion of its own forms, unless the applicant refuses that assistance;

b. Provide for a continuous supply of forms and instructions to every agency and office providing assistance under the Work First New Jersey program, 42 U.S.C. sect. 601 et seq., and the federal “Food Stamp Act of 1977;”

c. Provide the forms and instructions in both English and Spanish languages to agencies and offices located in counties in which bilingual sample ballots are required;

d. Provide for collection of completed voter registration forms by any employee of the agency or office for transmittal to the Secretary of State;

e. Provide that any person with a disability who receives services or assistance, shall have forms, instructions and assistance provided at home, by an employee of the agency or office;

f. Inform each employee of the agency or office who helps register a person to vote that the employee shall not:

(1) seek to influence an applicant’s political preference or party allegiance;

(2) display any political preference or party allegiance;

(3) say anything to an applicant or do anything with the purpose or effect of discouraging the applicant from registering to vote; or

(4) say anything to an applicant or do anything with the purpose or effect of leading the applicant to believe that deciding to register or not to register affects the availability of services or benefits; and

g. assure that no information about a person’s declining to register to vote is used for any purpose other than the voter registration.

Source: 44:1-24.2, 44:10-33.

COMMENT

The draft provision combines and states more clearly the two source provisions.

4-27. Administration and distribution of state aid for public assistance

The Commissioner of Human Resources shall administer state aid for public assistance for municipalities and counties entitled under this act, from the Municipal Aid Fund and other funds appropriated from the State treasury.

Source: 44:8-110.

COMMENT

The draft provision eliminates excess words from the source.

4-28. Commissioner’s duties

The commissioner shall:

a. Be the State’s agent in effecting any reciprocal interstate agreements about transportation of dependents;

b. Negotiate with the Federal Government about present or future programs affecting public relief or assistance for which other State statutes make no provision, and administer the program in cooperation with the Federal Government;

c. Keep necessary records for administration of State aid.

d. Make and amend regulations necessary for administration of State aid which shall be binding upon municipalities or counties;

e. Determine whether or not municipalities or counties are complying with all provisions of law regulating administration of State aid;

f. Set and enforce standards for investigating and supervising grants for public assistance, and forms and procedures necessary for their proper administration; and

g. Exercise other powers necessary for administration of State aid.

Source: 44:8-110.3, 44:8-111(d).

COMMENT

The draft combines the sources and removes duplication of the commissioner's rule-making duty, and streamlines the language.

4-29. Centralized registry; updating of information

a. The centralized registry established by the commissioner in the Division of Family Development in the Department of Human Services shall contain names, Social Security numbers and additional identifying information which the commissioner requires, of recipients of benefits under TANF TAEH.

b. Each entity administering public assistance shall provide information and assistance as requested by the commissioner.

c. The commissioner shall provide for periodic updating of the registry information.

Source: 44:8-111.1.

COMMENT

The draft changes the source language to reflect that the registry is already established, and makes the provision more concise.

4-30. Reciprocal provision of central registry information; comparison checks

a. The commissioner shall make the centralized registry information available to states contiguous to New Jersey and shall seek reciprocal provision of similar information from those states to the Division of Family Development.

b. The commissioner shall provide use of the registry for comparison checks of public assistance recipient records between entities administering public assistance within the State.

Source: 44:8-111.2.

COMMENT

The draft streamlines the source.

3-34. Annual reports

~~The commissioner shall report annually to the Governor and the Legislature on action taken to carry out the act's provisions and results, and shall recommend appropriate administrative or legislative action.~~

~~Source: 44:111.3.~~

COMMENT

~~Substantively similar to the source.~~

4-31. Commissioner's powers

The commissioner may:

a. Prescribe the number and qualifications of personnel employed or to be employed in administering public assistance in each municipality or county;

b. Require each municipality or county to keep records of, and make reports on, the administration of State aid within each municipality or county in the form and containing the information that the commission finds necessary, and investigate to verify the facts stated in the records and reports;

c. Investigate public assistance administration within each municipality or county and determine the compliance or noncompliance of the municipality or county with the laws governing administration of State aid for relief and with the department's standards and requirements.

d. Withhold State aid payment from any municipality or county that does not keep records or make reports or comply with laws governing State aid administration or the department's standards and requirements.

e. Consult with and advise any municipal or county officials regarding public assistance problems in their municipality or county.

Source: 44:8-112.

COMMENT

The draft streamlines the source. By amendment in 1995, county was added to all municipal references.

4-32. Commissioner's powers over municipal and county administration

The commissioner may, for each municipality or county in which public assistance is administered by the commissioner:

a. Directly distribute sums allotted as State aid as provided by this act; and

b. Use municipal or county organizations for administration of public assistance to assist the commissioner.

Source: 44:8-113.

COMMENT

The draft eliminates the first two subsections of the source as duplicative: their content is required in 4-2(d) and 4-2(c), (d), and 4-3(a). By amendment in 1995, county was added to all municipal references.

4-33. Annual determination of preceding year's ratables and public assistance loads of municipalities

The commissioner annually shall determine for each municipality:

a. The sum total of the net valuation taxable and the value of second-class railroad property in the abstract of ratables of the counties for the preceding year made out by the State Commissioner of Taxation and Finance and filed in the State Comptroller's office, which sum total shall be the municipality's preceding year's ratables;

b. The preceding year's cost of public assistance, exclusive of administration costs, which shall be the municipality's preceding year's public assistance load;

c. The current year's cost of public assistance, exclusive of administration costs, which shall be the municipality's current year's public assistance load;

d. The number of mills on each dollar of the preceding year's ratables which would have to be levied in each municipality to raise an amount equal to the "preceding year's public assistance load" which millage shall be the municipality's] preceding year's public assistance millage.

e. In determining a municipality's preceding year's public assistance load and current year's public assistance load, the commissioner may include the cost to the municipality of public assistance paid or payable by the county welfare agency.

Source: 44:8-128.

COMMENT

Substantially like the source.

4-34. Determining amount of State aid; advance payments; deductions

a. Annually the commissioner shall determine the amount of State aid which each municipality or county shall receive that year, and shall distribute it among themunicipalities and counties which applied to the commissioner for it before July first of that year, except those in which the commissioner administers public assistance for all or any part of that year, by payment to each municipality or county of 100% of its "current year's public assistance load."

b. The commissioner may make payments from time to time to a municipality or county in advance of determining its "current year's public assistance load" based on the commissioner's estimates of the municipality's or county's "current year's public assistance load" and may adjust later payments when the municipality's or county's actual "current year's public assistance load" is determined.

c. The commissioner shall deduct from the amount of the State aid payable to a municipality or county in one year an amount equal to the amount by which the State aid paid to the municipality or county exceeded the cost of public assistance to the

municipality or county exclusive of administration costs, or the total amount of State aid payable to the municipality or county, for any preceding year. If the amount of State aid payable to a municipality in any year does not equal the amount of the excess, the director shall withhold any State aid due the municipality or county for the succeeding and for subsequent years if necessary until the amount of State aid withheld from the municipality equals the total excess amount.

Source: 44:8-129, 44:8-130, 44:8-131.

COMMENT

Subsections (b) and (c) add county to municipality references.

4-35. When commissioner shall administer public assistance in municipality

The commissioner shall administer public assistance in any year:

a. In a municipality in which the preceding year's public assistance millage for the year is more than 7.0 mills, which shall apply in writing on or before March first of the year, to have the commissioner take over administration of public assistance in the municipality for the year; and

b. In a municipality in which the commissioner administered public assistance in the preceding year, which does not elect to administer its own public assistance by giving the commissioner notice.

Source: 448-133.

COMMENT

The draft is substantially like the source.

4-36. Duties of municipality when State administers the municipal public assistance

During any year in which the State commissioner administers the general public assistance program in a municipality,

a. All records and other property held by any municipal board, body or official, relating to administration and payment of public assistance, shall be given to the commissioner;

b. The municipality shall appropriate for the cost of administration of public assistance in the municipality for the year, an amount not less than the preceding year's amount, and shall appropriate for public assistance (exclusive of administrative costs) an amount not less than 1.0 mills of its preceding year's ratables;

c. All obligations which the municipality incurred for the cost of administration of public assistance in that year prior to the commissioner's taking over of the administration, and all such obligations incurred after the commissioner takes over, shall be paid by the municipality out of that year's appropriation for administration of public administration; any obligations remaining unpaid shall be paid by the commissioner as the municipality's State aid for the year out of the Municipal Aid Fund or other appropriate funds from the State treasury;

d. All obligations which the municipality incurred for public assistance in that year prior to the commissioner's taking over of the administration, all such obligations incurred after the commissioner takes over, shall be paid by the municipality out of that year's appropriation for public assistance, and then, out of any balance for State aid in its "public assistance trust fund account" and then, by the commissioner as the municipality's State aid for the year out of the Municipal Aid Fund or other appropriate funds from the State treasury.

Source: 44:8-134.

COMMENT

Streamlines the source.

4-37. Election of municipality to administer its own public assistance in following year

Any municipality in which the commissioner is administering general public assistance program, may again administer its own public assistance and be entitled to receive State aid, if it gives written notice to the commissioner before January first of the next year of its election to administer its own program; the municipality may in any succeeding year apply to the commissioner to have the commissioner again administer its public assistance.

Source: 44:8-135.

COMMENT

Streamlines the source.

4-38. Election of municipality to administer its own public assistance during current year

A municipality in which the commissioner is administering general public assistance program in any year, may elect to administer its own program in that year by giving written notice of the election to the commissioner by March first of that year, after which time the municipality shall resume administering its own program and shall be entitled to receive State aid for the year less sums already paid.

Source: 44:8-136.

COMMENT

Streamlines the source.

4-39. Rebates for pharmaceutical products; requirements

a. The commissioner shall contract with manufacturers of pharmaceutical products to provide rebates for pharmaceutical products covered under this act on the same basis as is required under the "Pharmaceutical Assistance to the Aged and Disabled" program (C. 30:4D-20 et seq.) and "Senior Gold Prescription Discount

Program” (C. 30:4D-43 et seq.) and in section 1927(a) through (c) of the federal Social Security Act (42 U.S.C. sect. 1396r-8(a)-(c).

b. A manufacturer who participates in the GA program pursuant to this section shall provide to the commissioner whatever information the commissioner requests in order to carry out the purposes of this section.

Source: 44:8-159, L. 2005.

COMMENT

The draft deletes two sentences that are irrelevant after the 2005 date of enactment.

4-40. Disbursement of funds for legal services for successful appeals

a. The Division of Family Development in the Department of Human Services shall disburse funds from the Payments to Municipalities for Cost of General Assistance Fund for fees to an attorney or a legal entity providing legal services who represents a recipient of public assistance pursuant to C. 44:8-107 et seq, P.L. 1947, in an appeal of a claim for federal Supplemental Security Income benefits pursuant to the federal Social Security Act, 42 U.S.C. 1381 et seq., if the appeal is decided in favor of the recipient. The fees to the attorney or legal entity providing legal services shall be a fixed amount set by the Commissioner of Human Services’ rules and regulations.

b. No disbursement shall be made unless the attorney or legal entity providing legal services submits a petition and a copy of the favorable decision to the Division of Family Development within 60 days of the date of receipt of the favorable appeal decision. The disbursement of fees to the attorney or to the legal entity providing legal services shall be made within 30 days of the required information’s submission by the attorney.

Source: 44:8-110.1.

COMMENT

The draft streamlines, and is substantially like, the 1996 source provision.

4-41. Reduction of amount of payments to municipalities for cost of general assistance funds

The Division of Family Development shall reduce the amount of payments to municipalities for cost of general assistance funds otherwise required to be paid to the municipal public assistance department as reimbursement for the public assistance provided while the Supplemental Security Income claim was appealed by the fixed fee amount disbursed to the attorney or to the legal entity representing the recipient of public assistance from that municipal public assistance department.

Source: 44:8-110.2.

Comment

The draft is substantially like the 1996 source provision.