

PUBLIC ASSISTANCE LAW

Chapter 5 – Administration

5-1. 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 at least quarterly concerning the number of recipients: (1) in the program, (2) classified as exempt from time limits or deferred from work requirements, (3) classified as to the degree of employability as defined by the Commissioner, (4) who have obtained employment, (5) terminated from the program and the reasons for the terminations; and: (1) the average wages and benefits earned by recipients, (2) the types of employment obtained by recipients and whether the employment is in the public or private sector, (3) the average length of stay in their jobs by recipients who reapply for benefits, (4) 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).

Federal law does not provide the guidelines for the State Commissioner reporting to state officials; requirements for reporting to the federal officials are provided in 45 C.F.R. § 265: Data Collection and Reporting Requirements. Specifically, § 265.3 deals with quarterly reports (TANF data report, TANF Financial Report, SSP-MOE Data Report), and § 265.9 deals with annual reports.

5-2. 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 substantively identical to the source.

5-3. 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. 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.

5-4. 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 Work First New Jersey program to the extent deemed necessary to carry out the project and for a period not exceeding three years, during which 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 Section 2-2 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.

5-5. County agency implementation of TANF program

The county agency shall be responsible for implementing the Temporary Assistance for Needy Families program in accordance with regulations adopted by the Commissioner and ensuring that all eligible persons residing in the county have access to benefits.

Source: 44:10-73.

COMMENT

The draft provision derives from Subsection (a) of the source provision.

5-6. Reimbursement for administrative costs

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

Source: 44:10-73.

COMMENT

The draft provision derives from source Subsection (b).

5-7. Municipal administration of General Assistance Program

a. A municipality that now administers its General Assistance Program may continue to do so. By resolution, the municipality may end its administration of the Program and transfer responsibility for administration to the county. A copy of the resolution shall be provided to the Division of Family Development in the Department of Human Services within three days of its passage.

b. For a municipality that administers general assistance, the Commissioner may:

(1) allow issuance of cash assistance benefits, in accordance with regulations, by check, electronic benefit distribution, or other appropriate means; and

(2) require the municipality to report information necessary for proper administration of the program through electronic means, as prescribed by regulation.

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

d. A municipality that administers general assistance 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 assistance.

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 may: 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 assistance to the county. Prior to affecting 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.

5-8. Allocation of federal funding; state reimbursement of counties

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 needy families provided to New Jersey under Pub. L. 104-193. The State shall reimburse the county agency for up to 50% of the total administrative costs of the TANF program, but no more than the maximum amount allocated for that county by the Commissioner and within the limits of available funds. The county shall fund the remaining administrative costs. The county's share of cash assistance benefits to TANF recipients shall be 5% of total cash assistance benefits costs, and the remaining 95% shall be funded by the State from State and federal funds.

b. The State shall reimburse the county agency for 100% of cash General Assistance benefits.

c. The Commissioner of Labor in consultation with the Commissioner of Human Services shall allocate among the counties the funding available for work activities as defined in Section 1-2, and case management activities applicable to work activities, from State appropriations and federal block grant funds for temporary assistance for eligible households provided to the State. 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.

5-9. State's share; additional payment

During the period July 1 through December 31 of each year the State shall pay to each county an amount equal to the county share of the total expenditures for the period January 1 through December 31 of that year. The State shall also pay to each county welfare board the full amount of any funds received by the State from the federal government as federal participation with respect to the costs of administration of the program of old age assistance by such county welfare board.

Source: 44:7-25.

COMMENT

The draft provision is identical to the second sentence of the source.

5-10. Payments by State to each county welfare board

The State shall pay to each county welfare board the full amount of any funds received by the State from the federal government as federal participation with respect to expenditures made by such county welfare board for assistance for the blind and assistance for the permanently and totally disabled, plus an additional amount of 75% of the balance of such expenditures after deducting the amount of such federal participation. During the period July 1 through December 31 of each year the State shall pay to each county an amount equal to the county share of the total expenditures for the period January 1 through December 31 of that year.

The State shall also pay to each county welfare board the full amount of any funds received by the State from the federal government as federal participation with respect to the costs of administration of the program of assistance for the blind and assistance for the permanently and totally disabled by such county welfare board.

Source: 44:10-40.

COMMENT

The draft provision is substantively identical to the source provision. It also replaces 44:7-40 and 44:7-46

5-11. Implementation of electronic benefit distribution system

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

e. The Commissioner may 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 P.L. 1997, c. 37 (C. 44:10-71 et al.). The draft substitutes a newer provision, 44:10-5.6 (1991), for the similar source subsection (c).

5-12. 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 that is used by an agency of State government to the extent permitted by federal law. The Commissioner shall preserve the confidentiality of Social Security numbers and divulge them only as required by 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. The second sentence is new but reflects established practice.

5-13. Establishment, implementation of technological investment

The Commissioner of Labor, in consultation with the Commissioner of Human Services, 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.

5-14. Municipal Agency; Local Assistance Board

a. Each municipality that administers a General Assistance program shall have an agency to conduct the program and to fulfill any other municipal duty of providing appropriate assistance to eligible persons.

b. Except as otherwise provided by law regarding municipal government, each municipality that administers a general assistance program shall have a Local Assistance Board of three or five members to supervise the program.

c. Unless the Local Assistance Board contracts for services of a municipal welfare director of an adjoining municipality, the Board shall appoint a Municipal Director of Welfare to hold office for five year terms. The municipal welfare director shall be a citizen of the State of New Jersey; be able to read and write the English language; be capable of keeping records as required by law; and demonstrate adequate knowledge of public assistance laws. The municipal director shall receive a salary set by the municipal governing body. In case of a vacancy, a temporary acting Director may be appointed to serve for up to ninety days.

d. The Board shall determine the staffing for its assistance program. All staff shall have the qualifications required by State regulations.

e. If a municipality ceases to administer its general assistance program, the duties of the municipal welfare director in regard to that program shall cease, and the county director shall assume those functions. All duties of the municipality in regard to general assistance to the poor shall be transferred to the county.

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. Subsection (e) clarifies the law, specifying that when a municipality gives control of the general assistance program to the county, the full responsibility of the municipality is transferred to the county.

5-15. County agency

a. Every county shall have an agency to administer state and federal assistance programs and other assistance.

b. Appropriations for assistance shall be subject to the approval of the county government.

c. The agency shall have a staff in accordance with regulations of the Commissioner. Regular employees may certify affidavits and acknowledgements and shall be vested with the powers and authority exercised by other persons authorized to do so.

d. The county director shall have subpoena power to compel attendance of an applicant and other persons in New Jersey and the production of pertinent documents in the State, and the power to administer oaths, and to reject an application for assistance if an applicant fails to obey a summons or subpoena or fails to testify, subject to agency approval. Failure to obey a summons or subpoena issued by the county director or failure to testify shall be punishable by the Superior Court as a civil contempt, but no commitment for contempt shall exceed 90 days.

e. The county agency shall have authority to establish wages, terms and conditions of employment for its employees through collective negotiation with an authorized employee organization, but all employees other than legal counsel shall be within the classified service.

(1) The agreement between an agency and an authorized employee organization is binding on both parties and not subject to approval by the Commissioner of Human Services.

(2) If the Commissioner of Human Services determines that a provision in an agreement between a county agency and an authorized employee organization does not comply with federal law and that it endangers continued receipt of federal funds, the Commissioner shall advise the county agency and authorized employee organization in writing, specifying the federal law and giving the reason for non-compliance.

(3) If the federal government notifies the Commissioner that the State’s administration of a federal assistance program does not comply with federal law because of a negotiated agreement between a county agency and an authorized employee organization, the Commissioner shall notify the county agency and authorized employee organization in writing.

(4) When the Commissioner notifies a county agency and an authorized employee organization, the Commissioner shall provide them with an opportunity to meet with the Commissioner to determine if the Commissioner’s finding is correct, and an opportunity to conform voluntarily to comply with federal law.

(5) If the Commissioner subsequently determines that the negotiated agreement does not comply with federal law, the Commissioner shall exercise only the authority

over wages, terms and conditions of employment in the county agency necessary to ensure that the agreement complies with federal law.

(6) If the federal government acts or notifies the Commissioner of Human Services that it may act to affect wages or terms and conditions of employment in a county agency, the Commissioner shall consult with the county agency and authorized employee organization which may be affected by the Commissioner's position on the federal action.

Source: New, 44:1-20, 44:7-20, 44:7-6.1, 44:7-6.2, 4:7-6.3.

COMMENT

Counties have always had and continue to have duties in regard to provide public assistance. 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.

Subsection (b) derives from 44:1-20. Subsections (d) and (e) streamline current law.

5-16. Establishment of Board to direct agency

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

b. The county welfare board shall

(1) supervise the assistance program in its county.

(2) comply with the requirements of the Open Public Meetings and Open Public Records Act.

(3) certify all bills and accounts, including salaries and wages, and provide for their payment in accordance with the approved county budget.

(4) be a body corporate with power to sue and be sued, and to make bylaws.

(5) meet regularly once a month, and at other times as necessary or as regulations provide.

g. Attendance at any Board meeting by four members, at least two of whom are citizen members, shall constitute a quorum.

h. Members shall receive no compensation for their services, but shall be allowed their actual and necessary expenses.

Source: New, 4:7-7, 44:1-10, 44:1-10.1, 44:1-10.2, 44:1-15, 44:1-19, 44:1-21 44:4-22.

COMMENT

Subsection (a) 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.

5-17. Membership of board

a. The Board of Chosen Freeholders 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 but may not be an employee of the board.

b. Two designated members of the County Board of Chosen Freeholders and the county adjuster shall be ex officio members of the agency board.

Source: 44:1-11, 44:7-9.

COMMENT

The draft streamlines the source provisions.

5-18. Officers; Employees

a. The board annually shall elect from among its members a chairperson, vice-chairman and secretary-treasurer, and shall appoint other officers, assistants and employees necessary to carry out the provisions of this chapter, subject to compliance with the personnel standards and regulations of the Merit System Board or State Division or both.

b. The director shall not be a member of the board.

~~c. The board may set the compensation of the director and other employees within the limits of the sums that the Board of Chosen Freeholders and the State provide.~~

~~d. The director, officers, assistants and other employees shall be subject to regulations made by the board and by the State division.~~

~~e. Regular employees may certify affidavits and acknowledgements and shall be vested with the powers and authority exercised by other persons authorized to do so.~~

~~f. Employees shall hold their office or employment during good behavior, and may be removed for just cause, if it is established upon written charges at a hearing held after due notice has been given by the board.~~

~~g. All paid officers and employees of a board operating under the Merit System Board, except an attorney serving as legal counsel, shall be classified in the competitive class of the classified service; all officers and employees of a board not operating under the Merit System Board shall be similarly classified under personnel standards established by the State division.~~

Source: 44:7-9.

COMMENT

The provision streamlines the language of the source.

5-19. Secretary-treasurer

a. The secretary-treasurer of a county board shall receive from the county treasurer and from the State its share for old age assistance and its administration, and shall place the sums in a special account or accounts for the board to disburse.

b. The secretary-treasurer shall furnish bond conditioned on faithful performance of duties, in an amount fixed by the board and approved by the County Board of Chosen Freeholders and by the State division.

Source: 4:4-23, 4:7-10.

COMMENT

The provision is substantively identical to its sources.

5-20. Term; vacancies; compensation and expenses

a. Members shall serve for five years.

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

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

COMMENT

This provision is substantively like the source provisions.

5-21. Funding; annual report

a. The budget of the board 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.

5-22. Director of County Assistance Program

a. The board shall appoint a director of its County Assistance Program. If qualified, the county adjuster may be appointed, but shall not serve as an ex-officio member of the board.

~~b. The director shall be:~~

~~(1) classified in the competitive class of the classified service of the Merit System Board, except that the working test period for the position of director of welfare shall be set by the Board at between six and twelve months; and~~

~~(2) a citizen of New Jersey and of the United States;~~

~~(3) capable of making and keeping required records and reports; and~~

~~(4) expert in assistance service, with administrative experience.~~

Source: New, 4:4-33, 44:7-11.

COMMENT

The provision streamlines the sources.

5-23. Deputy Director

~~a. A county director may appoint a person to serve as deputy director for general assistance.~~

~~b. The deputy director shall have the same qualifications as a director, shall be under the director's supervision, and shall be vested, on the board's approval, with the same powers as the director.~~

~~c. The deputy director shall be classified in the competitive class of the classified service.~~

Source: 44:7-11, 44:8-145.2.

COMMENT

Subsection (a) is substantively like the 1995 source provision, 44:8-145.2. Subsections (b) and (c) streamline the other source provision.

5-24. Other employees

~~The county board shall appoint employees necessary to carry out the provisions of this chapter. All employees other than legal counsel shall be part of the classified service.~~

~~Source: 44:4-34, New.~~

COMMENT

The draft streamlines the source. The second sentence of the draft includes new language and reflects current practice.

5-25. Service and remuneration of transferred employees; services to municipal agency

a. The transfer of a person who was a full-time employee of a municipal assistance agency, or who worked on a full-time basis for municipal assistance agencies in two or more municipalities, on November 13, 1995, to the county assistance agency with the agreement of the county assistance agency 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 assistance agency employees employed by the county welfare agency to continue to provide services from a municipal building.

Source: 44:8-145.4.

COMMENT

The draft is substantively identical to the source provision. The phrase, "with the agreement of the county assistance agency" in subsection (a) reflects the provisions of 44:8-145.1

5-26. Duties of the director of Assistance Programs

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

- a. Supervise review of the eligibility of every person receiving assistance;
- b. Reconsider the amount and type of 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 of investigation, supervision, assistance, rehabilitation, and certifications of persons for employment or benefits, and cancellations of them, in the forms required by the Commissioner;

Source: 44:7-11, 44:8-118.

COMMENT

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

5-27. Public assistance trust fund account

- a. Every payment for State aid for assistance made to a municipality or county shall be deposited in an assistance trust fund account and shall be used only for payment of the cost of 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.