



STATE OF NEW JERSEY

NEW JERSEY LAW REVISION COMMISSION

FINAL REPORT

Relating to

PUBLIC ASSISTANCE LAW

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John M. Cannel, Esq., Executive Director
NEW JERSEY LAW REVISION COMMISSION
153 Halsey Street, 7th Fl., Box 47016
Newark, New Jersey 07101
973-648-4575
(Fax) 973-648-3123
Email: njlrc@njlrc.org
Web site: <http://www.njlrc.org>

Introduction

Many of the statutes in the earlier chapters of Title 44- The Poor Law were enacted in the nineteenth century. Others date from the 1920's and before. They are archaic, in substance and in style, and do not reflect current reality and practice. Repealed and superseded terms and statutory citations exist in numerous sections. Also found in many sections are unconstitutional provisions for deporting people who lack legal "settlement" in New Jersey to other states. It appears that as times and welfare programs changed, very little of the old law was repealed. Thus, when categorical relief was established in the 1930's, new chapters were added but the old statutes on indoor and outdoor relief were left in place. When poverty programs were established in the 1960's, more material was added. With welfare reform in the 1990's, more was added, but very little was repealed or amended to bring it up to date. The result is that most of Title 44 is completely anachronistic. Very little of it is read or relied on by those who administer welfare programs. These parts of Title 44 should be revised or deleted. However, there are a few statutes that are of continuing importance buried among statutes that have no modern function. For example, sections in chapter 1 establish the basic duties of the counties and municipalities. Those must be retained.

The modern parts of Title 44 also need revision. 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~~ title replaced earlier programs including: aid to families with dependent children, general 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~~ title are Temporary Assistance 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 assistance for those people who do not fit within the categorical programs. The 21 county welfare agencies administer TANF using Federal and State funds.

The Work First New Jersey General Assistance Act, N.J.S. 44:8-107 et seq., L. 1997, the second main law, replaced the State's General Assistance law of 1947. The relationship between the two "Work First" laws is obfuscated by their statutory language. The Work First New Jersey General 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. County welfare agencies administer the majority of general assistance programs; however 103 of New Jersey's 566 municipalities still maintain their own offices for local administration. The State funds general assistance.

This draft proposes that the entire Title be called “Public Assistance Law” and that the distinctions between Assistance (now Chapter 8) and Temporary Assistance for Needy Families (currently Chapter 10) be clarified to remove meaningless and unnecessary duplication. The substantive provisions explain who is eligible, what benefits one receives, and the work requirements. Administrative provisions comprise a separate chapter.

Chapter 1 – Legislative Findings; Definitions

1-1. Legislative findings

a. The Legislature finds and declares that the law of New Jersey has always 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.

b. An eligible person shall be given appropriate assistance during the time an application for assistance is being considered.

c. This ~~act~~ title along with other law will implement all federal categorical public assistance programs and provide for those persons who need assistance and who are not eligible under federal categorical programs through the General Assistance Program.

Source: 44:8-120, New.

COMMENT

Subsections (a) and (c) are new and are 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. Subsection (b) derives from 44:8-120 and emphasizes that assistance is allowed to begin before the entire inquiry process initiated by an application concludes.

1-2. Definitions

a. “Alternative work experience” means unpaid work and training only with a public, private nonprofit or private charitable employer to provide a recipient with the experience 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.

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

c. “Community work experience” means unpaid work and training only with a public, private nonprofit or private charitable employer, provided to a recipient to enable the recipient to adjust to, and learn how to function in, an employment setting. Placements are directed toward groups directly involved in public service. A community work experience participant shall not be assigned to work for a private, for profit employer

d. “Department”, unless otherwise specified, means the Department of Human Services.

e. “Dependent child” means a child:

(1) under the age of 18;

(2) 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

(3) 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.

f. "Eligible alien" means one of the following

(1) a qualified alien as defined by subsection (r) of this section, admitted to the United States prior to August 22, 1996, who is eligible for means-tested, federally funded public benefits pursuant to federal law;

(2) a refugee, asylee, victim of human trafficking, 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;

(3) a qualified as defined by subsection (r) of this section 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;

(4) a recipient of refugee and entrant assistance activities or a Refugee Resettlement entrant pursuant to federal law;

(5) 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;

(6) a qualified alien as defined by subsection (r) of this section 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

(7) a qualified alien as defined by subsection (r) of this section 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 not 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. 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 eligible 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.

g. "Eligible household" or "assistance unit" means:

(1) ~~a person or couple~~ persons with one or more dependent children to whom they are legally or blood-related, or of whom ~~they are~~ one of them is legal guardian, and who live together as a household unit;

(2) a unit comprised of individuals living together and functioning as one economic unit and whose relationship is based upon a blood or legal relationship, i.e., one that is created through marriage, adoption or legal guardianship procedures;

(3) a single person without dependent children;

(4) ~~a couple~~ persons living together as a household unit without dependent children; and

(5) dependent children only.

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

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

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

~~k. “General 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.~~

k. “Income” includes 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 if 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.

l. “Income eligibility standard” means the income eligibility threshold based on eligible household size established by regulation of the Commissioner for benefits provided within the limit of funds appropriated by the Legislature.

m. “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, whether or not pursuant to a court order.

n. “Marriage” includes domestic partnership and civil union. “Spouse” includes a party to a domestic partnership or civil union.

o. “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.

p. "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)).

q. "Qualified alien" is defined according to section 431 of Title IV of Pub. L. 104-193, 8 U.S.C.A. § 1641.

r. "Residence" means the place where a person is present and declares an intent to remain.

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

t. "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.

u. "State Board" means the State Welfare Board.

v. "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 the State Plan to implement those provisions that were in effect until August 22, 1996, including income methodologies for determining eligibility under those provisions and plan.

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

x. "Work activity" means employment and employment related activities defined by regulation of the Commissioner. "Work activity," however, shall include any activities included as work by federal regulations.

Source: 44:10-4, 44:10-34, 44:10-44, 44:10-57, 44:10-71, 44: 10-108., NJDHS, DFD bulletin New Jersey State Plan for Temporary Assistance for Needy Families FFY 2006-FFY 2008, p. 5, p. 7, p. 17.

COMMENT

The draft combines all the definitions of the four source sections into one provision.

1-3. Construction in general

a. The provisions in this chapter shall not be construed to be exclusive.

b. A particular grant of power contained in this chapter ~~shall be held~~ construed to be in specification but not in limitation of general powers.

Source: 44:1-2.

COMMENT

The Division of Family Development consultants asked that this be added.

Chapter 2 - Provisions Applicable to both Work First New Jersey Programs: General Assistance and Temporary Assistance for Needy Families

2-1. Work First New Jersey Programs

a. Two programs compose Work First New Jersey (WFNJ) the State's assistance program:

1) General Assistance (GA) ~~gives~~ provides cash benefits and supportive services to persons who are not eligible for TANF such as single adults or families without children.

2) Temporary Assistance for Needy Families (TANF), ~~the New Jersey implementation of~~ implementing the federal categorical program, ~~gives~~ provides temporary cash benefits and support to enable families to get and keep jobs.

b. To receive assistance from GA or TANF, a person must:

1) either work, look for work, participate in an approved work activity, or qualify for an exemption to work-related requirements; ~~and~~

2) cooperate with paternity determination requirements, ~~and with child support requirements if the person has dependent children.~~

3) cooperate with child support requirements if the person has dependent children.

c. A person may not simultaneously receive benefits from both TANF and GA.

Source: New

COMMENT

This concise description is partially based upon the Department of Human Services, Division of Family Development (NJ DHS, DFD) bulletin New Jersey State Plan for Temporary Assistance for Needy Families, FFY 2006-FFY 2008, pp. 5, 7, 11. which explains New Jersey's welfare reform program which followed the reforms of the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996."

2-2. Adult recipient required to seek work

a. Each adult recipient of a Work First New Jersey program shall continuously and actively seek employment, as defined by the Commissioner, in an effort to remove the recipient's eligible 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, §407 (codified at 42 U.S.C.A. § 607), a recipient in an eligible 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. 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 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 be deferred temporarily from work activity requirements for periods less than 12 months if the recipient is:

(1) a woman in the third trimester of pregnancy;

(2) a person certified by an examining physician to be unable to engage in any gainful occupation because of a physical or mental ~~defect~~, disease or impairment; 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 eligible household, and may include specific goals for a dependent child member of the eligible household. The goals may 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~~ provided to recipients facing the most serious barriers to employment.

h. A recipient:

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

(a) ~~that~~ the position was previously filled by a regular employee ~~if that position~~, or if the 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) the position or its terms ~~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) the position or its terms ~~in a manner that~~ violates an existing collective bargaining agreement or a statutory provision that applies to that workplace;

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

(e) the placement is made 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 him or herself 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 ensure that the program meets the requirements to qualify for the maximum amount of federal funds due to the State under Pub. L. 104-193. The rate of participation of recipients in work programs shall be calculated in accordance with federal requirements.

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).

2-3. 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 eligible 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 different income and resource eligibility and benefits standards ~~that differ~~ with respect to different types of eligible households.

b. subject to good cause exception as defined by the Commissioner, a recipient, as a condition of eligibility for benefits, shall, ~~subject to good cause exception as defined by the Commissioner~~, be required to:

(1) cooperate to establish the paternity of a child whose paternity is undetermined and to establish and participate in the enforcement of child and medical support obligations;

(2) cooperate with work requirements established by the Commissioner;

(3) make application for any other assistance for which members of the eligible household may qualify;

(4) be income and resource eligible as defined by the Commissioner, including the deeming of income and resources as appropriate;

(5) provide all necessary documentation which shall include the federal Social Security numbers (SSN) for all eligible household members, or make application for the SSN except for an eligible alien who cannot be assigned a SSN due to status, ~~or make application for the SSN~~;

(6) sign an agreement to repay benefits in the event of receipt of income or resources; and

(7) 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.

d. 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 eligible household members ineligible for benefits for a period of time determined by regulation of the Commissioner.

e. 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 substantively like the source.

2-4. Disregards applied to earned income in computing cash assistance benefits

The commissioner shall promulgate regulations providing for disregards to the earned income of each person in the eligible household in the computation of a cash assistance benefit.

~~In computing the cash assistance benefit provided to recipients, disregards shall be applied to the earned income of each person in the eligible household as determined by regulations promulgated by the Commissioner.~~

Source: 44:10-37.

COMMENT

The draft provision is similar to the source but allows regulatory flexibility to allow the Commissioner to follow federal regulations.

2-5. Eligibility of citizens; eligible aliens

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~~ Persons 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.~~

Source: 44:10-48.

COMMENT

The draft provision is identical to the source subsection (a).

2-6. Persons ineligible for assistance, generally

The following persons shall not be eligible for assistance and shall not be considered to be members of an eligible household:

- a. 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;
- b. Supplemental Security Income recipients, except for the purposes of receiving emergency assistance benefits pursuant to section 2-9;
- c. aliens who are not eligible aliens;
- d. a person absent from the home who is incarcerated in a correctional facility, except as provided by regulation of the Commissioner;
- e. 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;

f. a person admitted or committed to an institution other than a residential substance abuse treatment facility that provides for the needs of the person.

Source: 44:10-48.

COMMENT

The draft provision is substantively identical to the source subsection (b) (1) through (6); subsection (g) has been added to reflect settled practice.

2-7. Persons ineligible for assistance due to controlled dangerous substance conviction

a. 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)), who would otherwise be eligible for general public assistance pursuant to P.L.1947, c. 156 (C.44:8-107 et seq.); except that such a person who is 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 general public assistance benefits 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.

b. Cash benefits, less a personal needs allowance, for a person receiving general public assistance 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 general public assistance 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;

Source: 44:10-48.

COMMENT

The draft provision is identical to the source subsection (b)(7).

2-8. Persons ineligible due to fraudulent misrepresentation

a. A person found in a judicial or administrative proceeding to have fraudulently misrepresented residence in order to obtain public benefits in two or more states or jurisdictions, shall be ineligible for benefits for a period of 10 years.

b. A person who intentionally makes a false or misleading statement or misrepresents, conceals or withholds facts for the purpose of receiving public benefits, 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 purposely makes a false statement to qualify for public benefits and thereby receives benefits for which the person is not eligible shall be subject to prosecution ~~for a crime~~ as provided by the Criminal Code.

Source: 44:10-48.

COMMENT

The draft provision is identical to source subsections (b)(8) and (9) and (c).

2-9. Emergency assistance; extension

a. Emergency assistance shall be provided only to recipients of Work First New Jersey and persons receiving Supplemental Security Income in emergent situations, as the Commissioner determines, for up to 12 cumulative months, except that the Commissioner may provide for an extension of emergency assistance for up to six additional months to:

(1) an eligible household with dependent children, if the Commissioner determines that a case of extreme hardship exists. The Commissioner shall review each 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 eligible 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) 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 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.

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

c. 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.

d. 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.

e. The provisions of this section shall apply to a person who receives general assistance after the effective date of this ~~act~~ title 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.

2-10. Repayment obligation; sanctions

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

b. When a parent or relative or legal guardian 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 the parent or relative, of funds arising from a claim or interest legally or equitably owned by the child or by the parents or relatives, 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 ~~parents, or relatives,~~ the recipient 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 parents or relatives, 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 parents or relatives made by any person acting for or on behalf of parents or relatives, after notice of claim by 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~~ title or assistance paid pursuant to an act repealed by ~~this act~~ the enactment of this title, 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. When a person applies for or receives benefits, and it appears that there is pending entitlement to a payment to the person of funds arising from a claim or interest legally or equitably owned by the person, the county or municipal agency, as a condition of eligibility or continuation of eligibility for benefits, may require the person 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 the person, the county or municipal 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 person made by any person acting for or on behalf of the person, after notice of claim by the county or municipal agency and before express written approval by the county or municipal agency shall cause that person to be liable the county or municipal agency in the amount of the payment.

e. 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 title or assistance paid pursuant to any act repealed by ~~this act~~ the enactment of this title.

Source: 44:10-64.

COMMENT

The draft provision deletes redundant language and reletters the subsections. Subsection (d) reflects settled practice allowing a welfare agency to be reimbursed for benefits paid to an adult while a claim is pending.

2-11. Primary responsibility for support; benefits eligibility

a. All adults ~~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 eligible household.

b. Benefits shall be temporary and serve the primary goal of fostering self-sufficiency.

c. 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 eligible household members.

d. If the county or municipal 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 of the applicant's household, ~~pursuant~~ according to regulations adopted by the Commissioner, of the applicant's eligible household, the county or municipal agency shall issue cash assistance benefits or appropriate services to the applicant on the date of application, subject to the applicant's meeting all other program eligibility requirements.

e. The Commissioner shall establish by regulation, standards and procedures to screen and identify applicants and 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, residency requirements, child support cooperation requirements, and the limitation on increase of cash assistance benefits as a result of the birth of a child, 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.

2-12. Noncompliance to result in loss of certain cash benefits.

~~In an assistance unit with a single adult or couple without dependent children or a single adult or couple with dependent children, †~~ The failure of a recipient to actively cooperate with the Work First New Jersey program, established pursuant to P.L.1997, c.38 (C.44:10-55 et seq.), or participate in work activities under the program, without good cause as determined by the Commissioner, shall result in a loss of cash assistance benefits in accordance with the provisions of this section.

Prior to the imposition of a sanction, the county or municipal welfare agency shall determine whether good cause for noncompliance exists. Good cause shall include, but is not limited to, disability or other circumstances, as defined by the Commissioner, which effectively impair a recipient's ability to actively cooperate with the Work First New Jersey program or participate in work activities under the program.

a. Prior to the imposition of a sanction, the county or municipal welfare agency shall ensure that, in consultation with the recipient, an assessment has been given in accordance with subsection f. of section 8 of P.L.1997, c.38 (C.44:10-62), and a determination has been made that barriers do not exist which are likely to prevent the recipient from complying with the work requirements or other activities specified in the individual responsibility plan; provided that, this prerequisite to the imposition of a sanction shall not apply if the recipient, without good cause, has refused to cooperate with the conduct of the assessment.

The county or municipal welfare agency shall determine if a sanctionable offense has occurred and whether good cause exists by:

(1) reviewing the case record to determine whether a comprehensive assessment or other information in the file indicates that good cause for noncompliance exists, and

(2) outreaching to the recipient, to attempt, in consultation with the recipient, to determine the reason for noncompliance and whether it constitutes good cause.

If good cause requires that services be provided in order for the recipient to comply, then services shall be provided prior to any reassignment of work activities, as appropriate.

The recipient shall be provided with reasonable accommodations in work activities for identified disabilities and, when necessary given the condition, deferred from participation.

The recipient shall be advised of the right to contest the sanction if he disagrees with the agency determination to impose the sanction.

b. In an assistance unit with one adult, if the adult fails to actively cooperate with the program or participate in work activities without good cause, the cash assistance benefit provided to the assistance unit shall be reduced by the pro-rata share of attributable to the noncompliant adult for one month.

(1) If the adult fails to actively cooperate with the program or participate in work activities by the end of the first-month pro-rata sanction, without good cause, the assistance unit's cash assistance case shall be suspended for one month. If the participant complies by the end of the suspension month, the suspension shall be lifted.

(2) If the adult fails to actively cooperate with the program or participate in work activities by the end of the suspension month, without good cause, the assistance unit's cash assistance case shall be closed for a minimum one-month period, and the assistance unit shall be required to reapply in order to receive further cash assistance benefits.

c. In an assistance unit with two adults, if one adult fails to actively cooperate with the program or participate in work activities without good cause, the cash assistance benefit provided to the assistance unit shall be reduced by the pro-rata share of the noncompliant adult for one month. If the adult fails to comply by the end of the sanction month, the pro-rata reduction shall continue until the recipient demonstrates an intent to comply.

If both adults fail to actively cooperate with the program or participate in work activities without good cause, the cash assistance benefit provided to the assistance unit shall be reduced by the pro-rata share of the noncompliant adults for one month. If both adults fail to actively cooperate with the program or participate in work activities by the end of the sanction month, without good cause, the assistance unit's cash assistance case shall be closed for a minimum one-month period, and the assistance unit shall be required to reapply in order to receive further cash assistance benefits.

d. If a dependent child 16 years of age or older fails to comply with the requirement for school attendance or other work activity participation, without good cause, the dependent child shall be subject to a pro-rata reduction of cash assistance benefits for one month. If the dependent child fails to comply by the end of the sanction month, the pro-rata reduction shall continue until the dependent child demonstrates an intent to comply.

e. If a cash assistance case is closed due to a sanction, and the recipient is receiving emergency assistance benefits, then the household shall continue to receive emergency assistance benefits for one month immediately following the case closure.

If the recipient comes into compliance and reapplies for cash assistance benefits, the emergency assistance benefits shall be reinstated if the emergency still exists.

f. If a recipient who is less than 18 years of age is living in a Work First New Jersey-funded appropriate living arrangement because the recipient is unable to live with a parent, guardian, or other adult relative, funding for the living arrangement shall continue for one month immediately following the case closure.

g. An adult recipient who voluntarily quits a job without good cause, as defined by regulation of the Commissioner, shall render the entire assistance unit ineligible for cash assistance benefits for a period of two months from the date the county agency or municipal welfare agency, as appropriate, makes the determination that the recipient quit the job.

Source: 44:10-63.1.

COMMENT

The section is identical to the source.

2-13. Community, alternative work experience not employment; exceptions

a. 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 it shall be regarded as employment for the purposes of:

(1) 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;

(2) 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;

(3) 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.; and

(4) 34:15-1 et seq., subject to the provisions of this act;

b. 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.

2-14. Workers' compensation status of recipient participating in community, alternative work

a. For the purposes of R.S. 34:15-1 et seq., 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. The recipient shall be exempted from the 60-month time limit for receipt of benefits 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 R.S. 34:15-1 et seq. 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 R.S. 34:15-1 et seq. 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 section 2-4 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 R.S. 34:15-1 et seq. 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 section 2-4 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.

2-15. Injury, illness, death arising from community, alternative work

a. Any recipient or dependent of a recipient participating in community or alternative work, ~~or dependent of the recipient~~, who receives compensation, or benefits, ~~or both~~ from the State pursuant to section 2-14 of this ~~act~~ title 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: 44:10-67.

COMMENT

The draft provision streamlines the language of the source.

2-16. 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~~ arising out of the recipient's community or alternative work experience, shall be to file an action in the Superior Court against the program.

b. The program shall ~~have available all of~~ be entitled to 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 it~~ be entitled to 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: 44:10-68, 44:10-69.

COMMENT

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

2-17. Time limit on benefit eligibility; exemptions

a. A recipient's eligibility for benefits shall be limited to a total of 60 cumulative months, except as otherwise provided in this act, regardless of whether the recipient meets more than one assistance unit criteria during that 60-month period. Receipt of assistance from federal block grant funds for temporary assistance for needy families provided by another state or territory pursuant to the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," Pub.L.104-193, shall count towards the 60-month time limit. The provisions of this section shall apply to a person who receives general public assistance pursuant to P.L.1947, c.156 after the effective date of this ~~act~~ title and is subsequently transferred directly into the Work First New Jersey program. Receipt of benefits as a dependent child or minor parent shall not count towards the 60-month time limit in the event that the dependent child or minor parent becomes a head of household in the child's or parent's own right for the purposes of receiving benefits.

b. A recipient shall be exempted from the 60-month time limit established pursuant to subsection a. of this section if the recipient is:

(1) over 60 years of age;

(2) the parent or other relative of a disabled child or other disabled dependent who must provide full-time care for the disabled child or other disabled dependent;

(3) permanently disabled, including, but not limited to, a person eligible for disability insurance benefits under Title II of the federal Social Security Act (42 U.S.C.s.401 et seq.), as defined by regulation of the Commissioner; or

(4) chronically unemployable as defined by regulation of the Commissioner.

c. A recipient may receive an extension of no more than 12 cumulative months beyond the 60-month time limit established pursuant to subsection a. of this section, to be granted in increments that shall not exceed six months, if the Commissioner determines that the recipient meets one of the following criteria:

(1) the recipient or the recipient's dependent child would be subject to extreme hardship or incapacity, as defined by regulation of the Commissioner, if benefits were terminated;

(2) the recipient is engaged in full-time employment but remains eligible for benefits due to earned income disregards provided for under section 4 of P.L.1997, c.13 (C.44:10-37);

(3) the recipient has not received an opportunity to engage in work activities as specified in the individual responsibility plan pursuant to subsection f. of section 8 of P.L.1997, c.38 (C.44:10-62); or

(4) the recipient was engaged in full-time employment and was income-ineligible for benefits but was terminated from the employment through no fault of the recipient.

Source: 44:10-72.

COMMENT

The draft provision is substantively like the source.

2-18. Supportive services

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:

a. child care services, including after-school child care, 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;

b. 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

c. a limited allowance for each eligible household to cover work-related expenses necessary to engage in required work activities, as determined by the Commissioner.

Source: 44:10-38.

COMMENT

The draft provision is substantively identical to subsection (a) of the source.

2-19. Work First New Jersey Program, failure to cooperate, sanctions.

In an assistance unit with a single adult or couple without dependent children or a single adult or couple with dependent children, the failure of a recipient to actively cooperate with the Work First New Jersey program, established pursuant to P.L.1997, c.38 (C.44:10-55 et seq.), or participate in work activities under the program, without good cause as determined by the Commissioner, shall result in a loss of cash assistance benefits in accordance with the provisions of this section.

Prior to the imposition of a sanction, the county or municipal welfare agency shall determine whether good cause for noncompliance exists. Good cause shall include, but is not limited to, disability or other circumstances, as defined by the Commissioner, which effectively impair a recipient's ability to actively cooperate with the Work First New Jersey program or participate in work activities under the program.

a. Prior to the imposition of a sanction, the county or municipal welfare agency shall ensure that, in consultation with the recipient, an assessment has been given in accordance with subsection f. of section 8 of P.L.1997, c.38 (C.44:10-62), and a determination has been made that barriers do not exist which are likely to prevent the recipient from complying with the work requirements or other activities specified in the individual responsibility plan; provided that, this prerequisite to the imposition of a sanction shall not apply if the recipient, without good cause, has refused to cooperate with the conduct of the assessment.

The county or municipal welfare agency shall determine if a sanctionable offense has occurred and whether good cause exists by:

(1) reviewing the case record to determine whether a comprehensive assessment or other information in the file indicates that good cause for noncompliance exists, and

(2) outreaching to the recipient, to attempt, in consultation with the recipient, to determine the reason for noncompliance and whether it constitutes good cause.

If good cause requires that services be provided in order for the recipient to comply, then services shall be provided prior to any reassignment of work activities, as appropriate.

The recipient shall be provided with reasonable accommodations in work activities for identified disabilities and, when necessary given the condition, deferred from participation.

The recipient shall be advised of the right to contest the sanction if he disagrees with the agency determination to impose the sanction.

b. In an assistance unit with one adult, if the adult fails to actively cooperate with the program or participate in work activities without good cause, the cash assistance

benefit provided to the assistance unit shall be reduced by the pro-rata share of the noncompliant adult for one month.

(1) If the adult fails to actively cooperate with the program or participate in work activities by the end of the first-month pro-rata sanction, without good cause, the assistance unit's cash assistance case shall be suspended for one month. If the participant complies by the end of the suspension month, the suspension shall be lifted.

(2) If the adult fails to actively cooperate with the program or participate in work activities by the end of the suspension month, without good cause, the assistance unit's cash assistance case shall be closed for a minimum one-month period, and the assistance unit shall be required to reapply in order to receive further cash assistance benefits.

c. In an assistance unit with two adults, if one adult fails to actively cooperate with the program or participate in work activities without good cause, the cash assistance benefit provided to the assistance unit shall be reduced by the pro-rata share of the noncompliant adult for one month. If the adult fails to comply by the end of the sanction month, the pro-rata reduction shall continue until the recipient demonstrates an intent to comply.

If both adults fail to actively cooperate with the program or participate in work activities without good cause, the cash assistance benefit provided to the assistance unit shall be reduced by the pro-rata share of the noncompliant adults for one month. If both adults fail to actively cooperate with the program or participate in work activities by the end of the sanction month, without good cause, the assistance unit's cash assistance case shall be closed for a minimum one-month period, and the assistance unit shall be required to reapply in order to receive further cash assistance benefits.

d. If a dependent child 16 years of age or older fails to comply with the requirement for school attendance or other work activity participation, without good cause, the dependent child shall be subject to a pro-rata reduction of cash assistance benefits for one month. If the dependent child fails to comply by the end of the sanction month, the pro-rata reduction shall continue until the dependent child demonstrates an intent to comply.

e. If a cash assistance case is closed due to a sanction, and the recipient is receiving emergency assistance benefits, then the household shall continue to receive emergency assistance benefits for one month immediately following the case closure.

If the recipient comes into compliance and reapplies for cash assistance benefits, the emergency assistance benefits shall be reinstated if the emergency still exists.

f. If a recipient who is less than 18 years of age is living in a Work First New Jersey-funded appropriate living arrangement because the recipient is unable to live with a parent, guardian, or other adult relative, funding for the living arrangement shall continue for one month immediately following the case closure.

g. An adult recipient who voluntarily quits a job without good cause, as defined by regulation of the Commissioner, shall render the entire assistance unit ineligible for cash assistance benefits for a period of two months from the date the county agency or

municipal welfare agency, as appropriate, makes the determination that the recipient quit the job.

Source: 44:10-63.1

COMMENT

This section is identical to its source, which was enacted in 2007.

Chapter 3 – General Assistance Program

3-1. Income from other sources; deductions from assistance; exception

a. An applicant for assistance who receives or is entitled to receive income from other sources or compensation may remain eligible to receive assistance if the income or compensation is less than the program eligibility standards.

b. Other income or compensation as defined by the Commissioner shall be deducted in the manner prescribed by law from the amount of 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

This section is substantially similar to the source provision, which was amended in 1995 to include counties as well as municipalities.

3-2. Inquiry into eligibility; record

a. A person who applies for assistance shall submit an affidavit attesting to the correctness of the application.

b. The agency administering 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 that state regulations require.

c. A written record of the inquiry shall be made in the form prescribed by the Commissioner.

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.~~

3-3. Type and extent of assistance; revocation; continuing duty

- a. Assistance to eligible persons may be provided by:
 - (1) cash assistance, or
 - (2) any other method authorized by the agency administering general assistance in compliance with regulations.
- b. The extent of individual grants shall be determined in accordance with standards and budgets which the Commissioner authorizes by regulation.
- c. Assistance ~~may~~ shall be discontinued when the person receiving it is no longer eligible.
- d. As provided by regulations, a recipient has a continuing duty to inform the agency providing assistance of changes in financial or personal situation which impact benefit eligibility.

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

COMMENT

Draft provision Subsections (a)–(c) combine the three sources. Subsection (d) is new and imposes a responsibility upon the recipient to report changes that impact eligibility.

3-4. Employable persons to work; exemption; noncompliance

- a. An employable person receiving assistance shall be required to comply with the work requirements of Section 2-2, except for good cause as determined by the Commissioner.
- b. The Commissioner, by regulation, 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 and any other assistance benefits as provided by this Title.

Source: 44:8-114.

COMMENT

The draft streamlines the source.

3-5. 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 assistance who is admitted to a 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 assistance; and

(2) nursing home costs for an alien residing in a Medicaid certified nursing facility prior to the effective date of this ~~act~~ title 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 Family Care 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.

3-6. Immediate public assistance

Immediate public assistance shall be rendered promptly to any person who appears to be eligible for assistance. Immediate public assistance shall be the responsibility of the director of welfare where the person is found at the time of application except that persons residing in facilities providing residential therapeutic medical services are the responsibility of the municipality of their customary place of abode prior to placement in such facility.

Source: 44:8-120.

COMMENT

The draft streamlines the source provision.

Chapter 4 – Temporary Assistance for Needy Families (TANF)

4-1. Evaluation of caregiver’s eligibility for benefits

A person other than a parent or stepparent who is a caregiver to a dependent child who is that caregiver’s legal or blood relative or guardian, shall be evaluated to determine whether that person is eligible for benefits.

Source: 44:10-35.

COMMENT

The draft is substantively identical to the source.

4-2. Eligibility of parent for benefits

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

b. The ~~eligible parent’s~~ 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.

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

Source: 44:10-36.

COMMENT

The draft provision is substantively identical to the source.

4-3. Eligibility of certain drug offenders for food stamps and medical services

a. A person convicted of any offense that has as 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 as 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 shall provide for testing of the person to determine if the person is free of any illegal controlled substance. If the person is not free of any illegal controlled substance during the 60-day period, the person's eligibility for benefits pursuant to this section shall be terminated; 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.

d. The Commissioner of Human Services, in consultation with the Commissioner of Health and Senior Services, shall adopt regulations to implement 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." No analogous provisions exist in the CFR.

4-4. 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 is 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.

4-5. Medical services

a. Medical assistance shall be provided to an eligible household with dependent children pursuant to N.J.S. 30:4D-1 et seq.

b. 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 after TANF benefits have been terminated due to:

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

(2) an eligible 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: 44:10-38.

COMMENT

The draft provision is substantively identical to subsection (b) of the source.

4-6. Subsidy for campus-based child care

A public 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 Section 2-2, 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 substantively identical to the source.

4-7. 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 eligible 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 eligible 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 eligible household ~~eligible for~~ receiving benefits and in receipt of child support shall receive, in addition to its regular grant of cash assistance benefits, a monthly amount determined under regulations promulgated by the Commissioner in accordance with federal law and based on the amount of current child support received for that month

Source: 44:10-49.

COMMENT

To the extent that the draft provision differs from its source, it reflects federal law and practice.

4-8. No increase in benefits due to birth of a child; exceptions

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

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

(1) earned income disregards; 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 eligible 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 an eligible household with dependent children for a child born less 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. One subsection has been deleted.

4-9. Benefits requirements, persons younger than 18 years with a dependent child

a. If an ~~applicant or recipient~~ person is younger than 18 years, has never been married, and is pregnant or is caring for a dependent child, the ~~applicant or recipient~~ person shall be required, as a condition of eligibility for benefits for the ~~applicant or recipient~~ person and the ~~applicant's or recipient's~~ person'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) attend school or 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 whom 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~~ person would be required to reside in order to be eligible for benefits:

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

(3) has physically or sexually abused the ~~applicant or recipient~~ person, or the ~~applicant's or recipient's~~ person'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 or the applicant's or recipient's~~ person's dependent child.

c. In determining to exempt ~~an applicant or recipient~~ a person pursuant to this subsection (b), the Commissioner shall get information directly from that ~~applicant or recipient~~ person when there has been any known circumstance or incident of physical or sexual abuse, or upon the ~~applicant's or recipient's~~ person's request.

d. For ~~an applicant or recipient~~ a person and the ~~applicant's or recipient's dependent child~~ who ~~are~~ is 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~~ person and the ~~applicant's or recipient's~~ person's dependent child.

e. The Commissioner shall exempt from the educational provisions of subsection (a)(2) ~~an applicant or recipient~~ a person 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.

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

g. The Commissioner shall arrange an appropriate review mechanism for ~~an applicant or recipient~~ a person 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.

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.

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 which 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: 44:4-23, 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:

(1) be 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) be a citizen of New Jersey and of the United States;

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

(4) be 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.

COMMENT

The draft extends the provision to include the county.

5-28. Transfer of current budget appropriation for assistance

A municipality or county receiving State aid for relief for any year shall not transfer the current year's budget appropriation for assistance to any other current budget appropriation without specific approval of the Commissioner.

Source: 44:8-139.

COMMENT

The draft extends the provision to include the county.

5-29. Exploitation of recipients prohibited

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

Source: 44:8-126.

COMMENT

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

5-30. 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, 44:10-5.9.

COMMENT

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

5-31. Administration and distribution of state aid for assistance

The Commissioner of Human Services shall administer state aid for 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.

5-32. Commissioner's duties

The Commissioner shall:

a. be the State's agent in negotiating and 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 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, removes duplication of the Commissioner's rule-making duty, and streamlines the language.

5-33. 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.

b. Each entity administering 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.

5-34. Reciprocal provision of central registry information; comparison checks

a. The Commissioner shall make the centralized registry information available to other states 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 assistance recipient records between entities administering assistance within the State.

Source: 44:8-111.2.

COMMENT

The draft streamlines the source.

5-35. Commissioner's powers

The Commissioner may:

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

f. Make regulations to implement this act.

Source: 44:8-112.

COMMENT

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

5-36. Commissioner's powers over municipal and county administration

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

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

b. Use the municipal or county government organizations for administration of 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.

5-37. Determining amount of State aid; advance payments; deductions

The Commissioner may make payments from time to time to a municipality or county in advance based on the Commissioner's estimates of the municipality's or county's assistance cost and may adjust later payments when the municipality's or county's actual cost is determined.

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

COMMENT

Though simplified in light of current practice, the section continues the substance of the source sections.

5-38. 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 title 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 General Assistance program pursuant to this section shall provide to the Commissioner information the Commissioner requests that is necessary to carry out the purposes of this section.

Source: 44:8-159.

COMMENT

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

5-39. 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 who requests a hearing within the timely notice period shall continue receiving current benefits pending the outcome of the hearing.

Source: 44:10-52.

COMMENT

This provision applies to both GA and TANF.

5-40. 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 assistance 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.

5-41. 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 assistance department as reimbursement for the assistance provided while the Supplemental Security Income claim was appealed.

Source: 44:8-110.2.

Comment

The draft is substantially like the 1996 source provision.

Chapter 6 – Recipients' Representatives

6-1. Definitions

As used in this chapter:

"Court" means the Superior Court in the county whose welfare board is responsible for making payments of public assistance to or for the benefit of the recipient or, in cases where a representative payee has been appointed pursuant to this act, the Superior Court having made such appointment.

"Functionally incompetent" means subject to a mental, physical or emotional condition which renders the individual incapable of receiving and utilizing payments of public assistance in a manner conducive to the health and well-being of himself and his dependents.

"Representative payee" means a person appointed by a court to act for a recipient to the extent of receiving and administering payments of public assistance.

"Public assistance" means "old age assistance" and "disability assistance" as authorized by Revised Statutes, Title 44, chapter 7; "blind assistance" as authorized by Revised Statutes, Title 30, chapter 6; "assistance for dependent children" as authorized by chapter 86, laws of 1959; together with amendments and supplements to any of the foregoing; and any other program administered through the county welfare boards, by whatever name now or hereafter known, which is authorized to provide financial assistance to needy persons in the form of money payments.

"Recipient" means a person who has been found eligible to receive payments of public assistance.

"Welfare board" means the county welfare board responsible for making payments of public assistance to or for the benefit of the recipient.

Source: 44:11-1.

COMMENT

The provisions of this chapter are identical to their sources except that the word "chapter" has been substituted for the word "act" in sections 6-1 and 6-8.

6-2. Appointment of representative payee; contents of complaint

Whenever it appears necessary to appoint a representative payee for a recipient who is functionally incompetent, a complaint seeking such appointment may be filed with the court by the welfare board. The complaint shall set forth the name, age and place of residence of the recipient; the name and place of residence of the nearest relative of the recipient, if known; and that the recipient has been found otherwise eligible to receive a grant of public assistance.

Source: 44:11-2.

6-3. Statement of incompetency by director of welfare board

A verified statement by the director of the welfare board, or his authorized representative, annexed to the complaint and setting forth that a review by the State Bureau of Assistance indicates that the recipient is functionally incompetent, shall be prima facie evidence of the necessity for the appointment.

Source: 44:11-3.

6-4. Hearing; evidence; appointment of representative

Upon the filing of a complaint and verified statement as provided by this act, the court shall proceed in a summary manner to hear testimony for the purpose of

determining whether the recipient is functionally incompetent. The written certification of two physicians who have been in the actual practice of medicine and surgery in this State for at least five years shall be sufficient, but not required, evidence to establish such condition of the recipient. If the court is satisfied that the recipient is functionally incompetent, such court shall appoint a fit and proper person as representative payee for such recipient.

Source: 44:11-4.

6-5. Powers and duties of representative

A representative payee appointed pursuant to this ~~act~~ title shall be authorized and empowered to receive payments of public assistance made for and on behalf of the recipient, and to administer such payments for the sole benefit of such recipient, in accordance with the laws and regulations governing such payments. Nothing in this ~~act~~ title shall authorize or empower such representative payee to receive, hold or administer any other property, real or personal, of the recipient nor to act as representative of the recipient in any other manner whatsoever.

Source: 44:11-5.

6-6. Responsibility for payments; statement of account; disposition of balance on death or discharge of representative

a. A representative payee appointed pursuant to this ~~act~~ title shall be personally responsible for the proper expenditure of all payments of public assistance made on behalf of the recipient, but shall not be required to give bond, and shall not be entitled to compensation for any acts or services performed.

b. At least once each year following appointment as representative payee, or upon discharge from such office, or upon notice that payments of public assistance are being discontinued, such representative payee shall file with the court a statement of account under oath showing the total amount of moneys received, the amount disbursed on behalf of the recipient, and the balance, if any, remaining in the hands of the representative payee. No further action by the court shall be required if there is annexed to such statement an approval of the account signed by the director of the welfare board or his authorized representative.

c. Any balance of assistance payments remaining in the hands of a representative payee at the time of his discharge from office, or at the time of discontinuance of public assistance, shall be repaid to the welfare board by such representative payee.

d. Should any representative payee die while in office, his personal representative shall file a statement of account and make disposition of any balance of assistance payments as provided in this section.

Source: 44:11-6.

6-7. Discharge of representative

a. When at a hearing held upon application of the recipient the court determines from the certification of two physicians, or other acceptable evidence, that the recipient is no longer functionally incompetent, the court may discharge the representative payee.

b. Whenever it appears upon application and good cause shown by the representative payee or the welfare board that such representative payee should be relieved of his duties, the court may discharge such representative payee and, if the circumstances still require, appoint in his stead some other fit and proper person.

Source: 44:11-7.

6-8. Liberal construction; costs

This chapter shall be liberally construed to secure the beneficial intent and purpose hereof. All proceedings under this act ~~chapter~~ shall be without costs except witness fees as required.

Source: 44:11-8.

Chapter 7 – Supplementary Assistance

7-1. Definitions

As used in this act:

a. "Basic payment" means any supplemental security income payment made to an aged, blind or disabled person by the government pursuant to the Federal Act.

b. "Eligible person" means any person meeting the State or government eligibility requirements for receipt of a basic payment, or a State supplementary payment, or both.

c. "Essential person" means any needy person residing with an eligible person who is recognized by State regulation to be essential to the well-being of the eligible person and whose needs are included in the determination of the needs of the eligible person.

d. "Federal Act" means Title XVI of the Social Security Act, as amended, 42 U.S.C. 1381-1383.

e. "Government" means the Federal Government of the United States of America and the agencies thereof.

f. "Legally liable relative" means any person designated by any law of this State as having a duty to support an eligible person or a duty to contribute to the support of an eligible person.

g. "Lien" means any legally perfected encumbrance or claim against the property or resources of an individual, authorized by this Act or Title 30 of the Revised Statutes.

h. "Supplemental Security Income Program" means the program established pursuant to the Federal Act, which makes payments to eligible persons.

i. "Supplementary payment" means any supplementary assistance payment as defined in the Federal Act made to an aged, blind or disabled person under eligibility requirements of this State.

Source: 44:7-85.

COMMENT

The draft is similar to the source.

7-2. Eligibility; determination of amount

Any person whose income, including any basic payment, is below the assistance standard established by the Commissioner and the government pursuant to the Federal Act is eligible for supplementary payments. The existence of an essential person may be considered in determining the amount of any supplementary payment made to an eligible person.

Source: 44:7-86.

COMMENT

The draft is identical to the source provision.

7-3. Duties of the Commissioner

The Commissioner shall:

a. Enter into agreements with the government to secure the administration of supplementary payments by the government that the Commissioner deems appropriate.

b. Make and amend regulations:

(1) To implement the terms of the agreement with the government for the administration by the government of supplementary payments; and

(2) To secure social services for eligible persons and for such other aged, blind or disabled persons as the Commissioner may designate.

c. Transfer funds appropriated for the payment of supplementary payments, to the government in amounts and at times as the Commissioner shall deem appropriate in order to provide for supplementary payments to eligible persons in this State.

d. Pay to the government funds necessary to reimburse the government's expenses in collecting additional information needed for the State to make eligibility determinations for medical assistance under the "New Jersey Medical Assistance and Health Services Act," P.L.1968, c.413 (C.30:4D-1 to 30:4D-19).

e. Require welfare agencies to perform eligibility determinations that the Commissioner deems necessary for the continuation of the New Jersey Medical Assistance Program under the "New Jersey Medical Assistance and Health Services Act," P.L.1968, c.413. The Commissioner shall pay to the counties a reasonable amount to reimburse the welfare boards for their expenses in making eligibility determinations.

f. Take appropriate steps to secure maximum federal financial participation in providing assistance to eligible persons residing in residential health care facilities.

g. Ensure that eligible persons residing in a residential health care facility have reserved to them a monthly amount, from payments received under the provisions of the act to which this act is a supplement or from any other income, as a personal needs allowance. The personal needs allowance may vary according to the type of facility in which an eligible person resides, but in no case shall be less than \$25.00 per month.

h. Ensure that any eligible person who receives medical assistance under subparagraph (4)(a) of subsection a. or under paragraph (11), (13) or (14) of subsection b. of section 6 of P.L.1968, c.413 (C.30:4D-6) receives \$10.00 per month, in addition to benefits received pursuant to 42 U.S.C. s. 1382(e)(1)(B). If the government cannot pay this \$10.00 monthly increase, the Commissioner shall pay this increase and shall ensure that this increase is not considered income for Supplemental Security Income program purposes. However, if the government increases the benefit level under 42 U.S.C. s. 1382(e)(1)(B), the Commissioner shall allow the government to pay this increase and shall reduce its payment to an eligible recipient by an equal amount.

i. Assess welfare boards at the beginning of each fiscal year in the same proportion that the counties currently participate in the federal categorical assistance programs, in order to obtain the amount of each county's share of supplementary payments for eligible persons in this State, based upon the number of eligible persons in the county.

Source: 44:7-87.

COMMENT

The draft streamlines the source.

7-4. Duties and responsibilities of welfare boards

Welfare boards shall:

a. perform all the functions under the former federal categorical assistance programs that the government will not perform pursuant to the agreement between the State and the government.

b. Provide social services to persons designated to receive services pursuant to this Act.

Source: 44:7-88.

COMMENT

The draft streamlines the source.

7-5. Nonliability of recipient of supplementary payments or recipient's legally liable relative for repayment;

a. Supplementary payments shall not be considered a loan by the State or by the welfare boards.

b. No requirement under this Act or Title 30 of the Revised Statutes relating to the pledging of property or to the reimbursement of assistance shall be imposed upon, and no liens shall be made or enforced against, a recipient of supplementary payments for

the purpose of recouping payments. Recoupment shall be required for specific State expenditures from lump sum retroactivity SSI payments.

c. No requirement of support, contribution, or legal liability therefor, may be enforced against a legally liable relative of a person receiving supplementary payments or other payments made by the welfare boards pursuant to this Act.

Source: 44:7-89.

COMMENT

The draft omits source references to programs which no longer exist.

7-6. Eligibility for medical assistance under New Jersey Medical Assistance and Health Services Act

a. Any person eligible for basic payments under the Federal Act, any person eligible for supplementary payments and any essential person, may be determined by regulations of the Commissioner to be eligible for medical assistance under the New Jersey Medical Assistance and Health Services Act, P.L.1968, c. 413.

b. Any person who would be financially eligible for basic payments or supplementary payments, or both, who is in an institution and financially ineligible for such payments by reason of the lower maximum income eligibility level under the Federal Act for persons residing in institutions, shall be eligible for medical assistance under the New Jersey Medical Assistance and Health Services Act, P.L.1968, c. 413.

Source: 44:7-90.

COMMENT

The draft is substantially like the source.

Chapter 8 - Responsibility for Burial Expenses

8-1. Responsibility for Burial Expenses.

a. When a person dies who is receiving assistance under a Work First New Jersey assistance program, the agency that was providing assistance shall be responsible for the necessary and reasonable expenses of burial as determined by the Commissioner.

b. Except as provided by subsection (a), when a person dies without an ascertainable estate sufficient to pay for burial expenses, the county of the decedent's residence shall be responsible for the necessary and reasonable expenses of burial beyond those payable by the decedent's estate and by any government payment available for that purpose.

c. When an unidentified or unclaimed dead body is found, the county in which it is found shall be responsible for the necessary and reasonable expenses of burial.

Source: New.

COMMENT

This formulation reflects current practice. Earlier related statutes are: 30:4C-32, 40A:9-49.1, 44:1-157.1, 44:4-119, 4:7-13, 49:4-158.

Chapter 9 - Individual Development Accounts

9-1. Findings, declarations regarding individual development accounts

a. The Legislature finds and declares that:

(1) Economic well-being does not come solely from income, spending and consumption, but also requires savings, investment and accumulation of assets, since assets can improve economic stability, connect people with a viable and hopeful future, stimulate development of human and other capital, yield personal and social dividends and enhance the welfare of offspring.

(2) With the enactment of the "Work First New Jersey Act," P.L.1997, c.38 (C.44:10-55 et seq.) and companion legislation, emphasizing moving people off of public assistance and into employment, there is an urgent need to provide incentives for savings accounts that will complement and stabilize the movement of people from public assistance and into employment.

(3) Income-based social policy should be complemented with asset-based social policy, because while income-based policies ensure that consumption needs, including food, child care, rent, clothing and health care are met, asset-based policies provide the means to achieve some degree of economic self-sufficiency.

(4) The State of New Jersey should develop policies, such as individual development accounts, that promote higher rates of personal savings and net private domestic investment.

b. It is the intent of the Legislature, therefore, to provide for the establishment of individual development accounts which accounts are designed to:

(1) provide individuals and families, especially those with limited means, an opportunity to accumulate assets;

(2) facilitate and mobilize savings;

(3) promote education, home ownership and micro enterprise development; and

(4) stabilize families and build communities.

Source: 44:10-87

COMMENT

The provisions of this chapter are identical to their sources except that the word "chapter" has been substituted for the word "act" in section 9-2.

9-2. Definitions regarding individual development accounts

As used in this chapter:

"Account holder" means a person who is the owner of an individual development account.

"Commissioner" means the Commissioner of Community Affairs.

"Community-based organization" means a not-for-profit organization described in section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. s.501(c)(3)) and exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 (26 U.S.C. s.501 (a)), that is approved by the Commissioner to implement the New Jersey Individual Development Account Program established under this act.

"Department" means the Department of Community Affairs.

"Economic literacy" means a basic understanding of budgets and savings accounts, credit and interest and how to use financial services; and having a savings plan and using it to reach the account holder's savings goal for an individual development account.

"Eligible individual" means an adult with an annual household gross income up to a maximum of 200 percent of the official poverty level.

"Financial institution" means a state or federally chartered bank, savings bank, savings and loan association or credit union with an office in this State.

"Fund" means the Individual Development Account Fund established pursuant to 42 U.S.C. s.604(h) and 45 C.F.R. Part 263 (45 C.F.R. s.263.0 et seq.).

"Individual development account" means an account established pursuant to 42 U.S.C. s.604(h) and 45 C.F.R. Part 263 (45 C.F.R. s.263.0 et seq.) in trust for an eligible individual that is a trust account pursuant to the "Multiple-party Deposit Account Act," P.L.1979, c.491 (C.17:16I-1 et seq.).

"Program" means the New Jersey Individual Development Account Program established pursuant to the provisions of this act.

"Program contributor" means a person or entity who makes a contribution to an individual development account reserve fund, except that "program contributor" does not mean the account holder.

"Reserve fund" means the individual development account reserve fund created by a community-based organization for the purposes of: funding the costs incurred in the administration of the program; receiving matching funds from the State; and providing matching funds for individual development accounts pursuant to section 5 of this ac.

Source: 44:10-88

9-3. New Jersey Individual Development Account Program

a. The New Jersey Individual Development Account Program is hereby established within the Department of Community Affairs. The purpose of this program shall be to provide each eligible individual in this State with an opportunity to establish

an individual development account in a financial institution, to the extent funding will permit. The individual development account may be used for any of the purposes specified under subsection c. of section 5 of this act.

b. There is established in the department, the Individual Development Account Fund. This fund shall be used by the Commissioner to provide:

(1) grants to community-based organizations selected by the Commissioner to participate in the program; and

(2) a State match of one dollar for every one dollar of earned income deposited into an individual development account by the account holder, except that the maximum amount provided as a match per individual development account per calendar year shall be \$1,500. The earned income deposited into an individual development account shall not be deposited on behalf of the account holder by a third party.

Community-based organizations may raise additional, non-federal or State funds to increase the State match rate and the State maximum annual match amount.

c. The Commissioner shall implement this program by entering into agreements with community-based organizations which the Commissioner shall select through a request for proposal process, pursuant to the provisions of P.L.1987, c.7 (C.52:14-34.4 et seq.).

d. In reviewing the proposals of community-based organizations, the Commissioner shall consider the following factors:

(1) the not-for-profit status of the organization;

(2) the fiscal accountability of the organization;

(3) the ability of the organization to provide its moneys or raise moneys from program contributors for matching contributions which are in addition to State matching funds;

(4) the plan of the organization for the development, implementation and management of an individual development account program;

(5) the capacity of the organization to provide economic literacy training, either directly or through another provider;

(6) the organization's history of working with low-income populations;

(7) the target population and the extent to which the organization plans to exceed the 33.3 percent minimum participation under this ~~act~~ title by current or former Work First New Jersey recipients pursuant to P.L.1997, c.38 (C.44:10-55 et seq.), or Aid to Families with Dependent Children recipients or Temporary Assistance for Needy Families recipients pursuant to 42 U.S.C. s.601 et seq.; and

(8) the length of time, in months and years, of the operation of the program, taking into account the resources that are available to the organization.

e. (1) The Commissioner shall select community-based organizations and enter into a contract for services with each organization selected that requires the organization to establish and maintain an individual development account reserve fund

and work with each eligible individual and any local financial institution to establish an individual development account, among other services to be provided for eligible individuals and their households, if any.

(2) The Commissioner shall have the discretion to disburse moneys from the fund in a manner and an amount the Commissioner deems appropriate and consistent with the community-based organization's contract for services and proposal selected pursuant to this subsection and subsections c., d. and f. of this section.

f. (1) No more than 10 percent of the federal Temporary Assistance for Needy Families funds under this ~~act~~ title may be used for administrative purposes by a community-based organization selected to participate in the program.

(2) No more than 10 percent of the federal Temporary Assistance for Needy Families funds under this ~~act~~ title may be used to provide economic literacy training and one-on-one financial counseling to account holders by an organization selected to participate in the program.

g. At all times, a minimum of 33.3 percent of the account holders participating in the program shall be current or former Work First New Jersey recipients pursuant to P.L.1997, c.38 (C.44:10-55 et seq.) or Aid to Families with Dependent Children recipients or Temporary Assistance for Needy Families recipients pursuant to 42 U.S.C. s.601 et seq., unless otherwise authorized by the Commissioner.

Source: 44:10-89

9-4. Opening an individual development account; conditions

a. An eligible individual may, in agreement with a community-based organization selected by the Commissioner pursuant to section 4 of this act, open an individual development account for the purpose of accumulating and withdrawing moneys for specified expenditures pursuant to this section. Upon satisfaction of the organization's requirements for economic literacy by an account holder, the organization shall certify to the Commissioner that the account holder may withdraw moneys from the account on the approval of the organization, without penalty, for any of the expenditures listed in subsection c. of this section.

b. The Commissioner shall establish by regulation:

(1) the minimum monthly deposit amount that each account holder shall be required to maintain and the maximum monthly deposit amount that each account holder shall be permitted to make, during their participation in the program;

(2) the minimum time period the account holder shall maintain an individual development account, pursuant to section 4 of this act, in order to be eligible to withdraw the moneys deposited and receive the State matching funds, pursuant to this subsection and subsections c., d. and e. of this section;

(3) the prior notice of the account holder's intent to, and purpose for, withdrawing individual development account funds and the minimum time period that an account holder shall give notice to the individual development account trustee community-based organization prior to an approved withdrawal in order to be eligible to

receive State matching funds pursuant to this subsection and subsections c., d. and e. of this section; and

(4) the maximum length of time an account holder may participate in the program.

c. Upon satisfaction of the provisions of subsections a. and b. of this section by the community-based organization:

(1) the account holder may, upon the approval of the community-based organization, withdraw moneys from the account holder's individual development account in the form of a joint check or transfer of funds made payable to the account holder and the payee of the approved withdrawal, pursuant to 45 C.F.R. s.263.22, for any of the following purposes:

(a) post-secondary educational expenses as defined in 42 U.S.C. s.604(h)(5) and 45 C.F.R. s.263.20;

(b) qualified acquisition costs of a primary residence as defined in 42 U.S.C. s.604(h)(5) and 45 C.F.R. s.263.20; and

(c) qualified business capitalization expenses, as defined in 42 U.S.C. s.604(h)(5) and 45 C.F.R. s.263.20.

(2) if the account holder withdraws any moneys from the account and uses those moneys, or any part of those moneys, for a purpose other than that permitted pursuant to this subsection, the account holder shall forfeit all matching funds associated with the unapproved withdrawal. The account holder shall receive only the moneys which the account holder has deposited into the account.

(3) the Commissioner, in consultation with the Commissioner of Human Services, shall establish procedures to ensure that funds held in an individual development account under this ~~act~~ title are withdrawn for qualified purposes only, as defined in this subsection. Penalties for unapproved withdrawals may include taxing the withdrawal as income and, as applicable, including the withdrawal as income or resources in determining eligibility for federal and State public assistance pursuant to 45 C.F.R. s.263.23.

d. Community-based organizations approved by the department shall establish an individual development account in trust for an eligible individual in a financial institution as required pursuant to this act. Organizations may, with the approval of the Commissioner, employ methods to maximize the efficiency of multiple individual development accounts, such as pooling deposits into a single account held by the financial institution, with individual account information maintained by the organization. In addition, with the approval of the Commissioner, organizations shall develop an efficient means of providing the match portion of an individual development account, such as matching deposits at the time of approved withdrawal only. Organizations acting as trustees under this ~~act~~ title shall, at all times, maintain current account information, without regard to the chosen method of administration, on all individual development accounts, which shall include: the individual development account balance, a time indexed record of deposits and withdrawals made by the account holder and the current match level. Community-based organizations under this ~~act~~ title shall certify to the

department that the accounts have been established pursuant to the provisions of this ~~act~~ title in trust for the account holder in the manner approved by the Commissioner.

e. A community-based organization establishing an individual development account shall:

(1) sign an agreement with an eligible individual to the effect that the account shall be kept in the name of the eligible individual as the account holder and that the eligible individual shall have an officer of the organization as a trustee of the account;

(2) open and keep the account in the name of the eligible individual, with an officer of the organization as trustee;

(3) permit the account holder to deposit earned income, as defined in 42 U.S.C. s.604(h)(2)(C), into an individual development account which shall be matched by the organization when withdrawn for an approved expenditure, pursuant to subsection c. of this section;

(4) maintain the records of individual development accounts in a manner that enables the organization to determine the amounts deposited by the account holder and amounts paid by the organization as matching funds;

(5) require the individual development account to earn a rate of interest that reasonably reflects the prevailing market rate paid on like deposits by financial institutions in this State, which shall be credited to the account holder;

(6) permit the account holder, after obtaining the signature of the trustee, to withdraw moneys from the account for any of the purposes listed in subsection c. of this section;

(7) remit matching funds in the form of a joint check or transfer of funds made payable to the account holder and the payee of the approved withdrawal, pursuant to 45 C.F.R. s.263.22 at the time the account holder withdraws funds for a purpose permitted pursuant to subsection c. of this section;

(8) work with other community-based organizations and State agencies to coordinate the program with other private and public programs designed for asset accumulation and self-sufficiency, such as transportation, child care and health care services, New Jersey Housing and Mortgage Finance Agency programs, Federal National Mortgage Association (Fannie Mae) mortgage programs and other programs under the direction of the Department of Human Services, such as the Family Loan Pilot Program and Entrepreneur Development Services Pilot Program;

(9) provide financial counseling to account holders and assist them in establishing a secure, low-risk, effective savings opportunity, for the purposes of an individual development account, for income that is in excess of the individual development account maximum match of \$1,500 per year or income that does not meet the definition of earned income, as defined in paragraph (3) of this subsection, such as federal and State earned income tax credits, homestead and property tax rebates, inheritance, monetary damages recovered in a legal proceeding and income from the sale of an asset. The account shall be tailored to each account holder's resources and financial goals and shall be held in a separate account from the individual development account.

Accounts investigated may include money market accounts, individual retirement accounts, certificates of deposit and individual development accounts that do not include matching federal or State funds; and

(10) be deemed to have a fiduciary duty with respect to moneys in an individual development account or reserve fund. The Commissioner may require that an organization post and maintain a fidelity bond or other security with regard to the position of the organization as fiduciary for the moneys in an individual development account or reserve fund.

Source: 44:10-90

9-5. Transfer of account on death of holder

a. Notwithstanding the provisions of any other law to the contrary, in the event of the death of the account holder, the ownership of the individual development account shall be transferred to the ownership of a contingent beneficiary, which the account holder shall name at the time the account is established and may change at any time. If the beneficiary is deceased or otherwise cannot accept the transfer, the moneys in the individual development account derived from the account holder's earned income and any interest accrued thereon shall be transferred to the estate of the account holder.

b. If an individual development account is closed pursuant to subsection a. of this section or an account holder withdraws from the individual development account program or forfeits his State matching funds due to an unauthorized withdrawal, any moneys held for matching funds for that account may be retained in the reserve fund for reallocation to be used as matching funds for new individual development accounts.

Source: 44:10-91

9-6. Money in, interest on account not considered gross income

a. Money deposited into or withdrawn from an individual development account by an account holder pursuant to ~~subsection e. of section 5 of this act~~ chapter or matched by a community-based organization pursuant to paragraph (7) of subsection e. of section 5 of this ~~act~~ chapter shall not be considered gross income otherwise includable as income pursuant to subsections a., b., k., and p. of N.J.S.54A:5-1.

b. Interest earned by an individual development account shall not be considered gross income otherwise includable as income pursuant to subsection e. of N.J.S.54A:5-1.

c. Moneys deposited in an individual development account and the interest from an individual development account under this ~~act~~ chapter shall not be taken into account in determining eligibility or the amount of assistance under State and federal means-tested programs pursuant to 42 U.S.C s.604(h) and 45 C.F.R. s.263.20.

Source: 44:10-92

9-7. Regulations; consultation with Human Services

a. The Commissioner shall promulgate regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to effectuate the provisions of this act.

b. The Commissioner shall consult with the Commissioner of Human Services regarding the development, operation and administration of the program and ensuring compliance with 42 U.S.C. s.604(h) and 45 C.F.R. Part 263 (45 C.F.R. s.263.0 et seq.).

Source: 44:10-93

9-8. Report to Legislature

a. The Commissioner shall report to the Legislature annually on the effectiveness of the program in providing eligible individuals in this State with an opportunity to establish an individual development account and may include in the report recommendations for change, if any, to make the program more effective. This report shall be due within 30 days of the end of the anniversary of the effective date of this section for each year the program is in operation.

b. The Department of Community Affairs shall make available to the Departments of Labor and Human Services necessary individual development account statistical and program information in a usable format and in a timely manner, so that those departments may prepare federal and other reports.

Source: 44:10-94