

RULE PROPOSALS

INTERESTED PERSONS

Interested persons may submit comments, information or arguments concerning any of the rule proposals in this issue until the date indicated in the proposal. Submissions and any inquiries about submissions should be addressed to the agency officer specified for a particular proposal.

The required minimum period for comment concerning a proposal is 30 days. A proposing agency may extend the 30-day comment period to accommodate public hearings or to elicit greater public response to a proposed new rule or amendment. Most notices of proposal include a 60-day comment period, in order to qualify the notice for an exception to the rulemaking calendar requirements of N.J.S.A. 52:14B-3. An extended comment deadline will be noted in the heading of a proposal or appear in subsequent notice in the Register.

At the close of the period for comments, the proposing agency may thereafter adopt a proposal, without change, or with changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-6.3. The adoption becomes effective upon publication in the Register of a notice of adoption, unless otherwise indicated in the adoption notice. Promulgation in the New Jersey Register establishes a new or amended rule as an official part of the New Jersey Administrative Code.

HUMAN SERVICES

(a)

DIVISION OF FAMILY DEVELOPMENT

Work First New Jersey Program

Elimination of the Work First New Jersey (WFNJ)/Temporary Assistance for Needy Families (TANF) Family Cap Provisions; Funeral and Burial/Cemetery Costs

Proposed Amendments: N.J.A.C. 10:90-1.2, 2.6, 8.2, 8.5, and 20.4

Proposed Repeal: N.J.A.C. 10:90-2.18

Authorized By: Sarah Adelman, Commissioner, Department of Human Services.

Authority: N.J.S.A. 30:1-12; and P.L. 2020, c. 99.

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

Proposal Number: PRN 2023-113.

Submit comments, in writing, by January 19, 2024, to:

Megan R. Mazzone, Administrative Practice Officer
Division of Family Development
PO Box 716
Trenton, New Jersey 08625-0716

Or email to: DFD-Regulations@dhs.nj.gov

The agency proposal follows:

Summary

N.J.A.C. 10:90 sets forth the rules of the Department of Human Services (Department), Division of Family Development (Division), governing the Work First New Jersey (WFNJ) Program, in accordance with the Work First New Jersey Act, P.L. 1997, c. 13, 14, 37, and 38, as amended.

Family Cap Provisions

Section 7 at P.L. 1997, c. 38, formerly codified at N.J.S.A. 44:10-61, mandated a family cap in the WFNJ program. A family cap is commonly understood as laws or policies intended to prevent or limit public welfare parents and families from receiving additional cash benefits solely as a result of the birth of an additional child(ren). N.J.A.C. 10:90-2.18 provided the family cap provisions for Work First New Jersey/Temporary Assistance for Needy Families (TANF) assistance units, in accordance with N.J.S.A. 44:10-61. N.J.A.C. 10:90-2.18 further provided certain aspects and limitations of the family cap provisions as applied to WFNJ assistance units. On September 29, 2020, Governor Murphy signed P.L. 2020, c. 99, into law, which repealed section 7 at P.L. 1997, c. 38,

formerly codified at N.J.S.A. 44:10-61. Therefore, the Department proposes repeal of the family cap provisions for WFNJ/TANF, codified at N.J.A.C. 10:90-2.18, and further amendments at N.J.A.C. 10:90.

The proposed repeal at N.J.A.C. 10:90-2.18 eliminates the family cap provisions since the provisions of these rules have been made obsolete as a result of P.L. 2020, c. 99.

The proposed amendment at N.J.A.C. 10:90-1.2(f)1 eliminates the responsibility of the county and municipal welfare agencies to explain the family cap provisions during the initial contact with WFNJ applicants. Specifically, the proposed amendment at N.J.A.C. 10:90-1.2(f)1 deletes the text “family cap provisions” with no other changes in text to reflect the proposed repeal of N.J.A.C. 10:90-2.18.

The proposed deletion of N.J.A.C. 10:90-2.6(a)3 deletes a waiver of the family cap provisions for victims of family violence, rape, or incest. This proposed amendment aligns with the proposed repeal of N.J.A.C. 10:90-2.18.

N.J.A.C. 10:90-8.2(a)12 is proposed for deletion because children are no longer subject to the family cap provisions, which aligns with the proposed repeal of N.J.A.C. 10:90-2.18.

The proposed deletion of N.J.A.C. 10:90-20.4(a)4 deletes text referencing the family cap provisions and a cross-reference to N.J.A.C. 10:90-2.18(a)4, which aligns with the proposed repeal of N.J.A.C. 10:90-2.18.

Funeral and Burial Costs

N.J.A.C. 10:90-8.1 through 8.8 sets forth the special provisions governing the availability of payments for funeral and burial expenses, which may be provided to eligible WFNJ recipients and certain other individuals, as identified in this subchapter. The payment of funeral and burial expenses is not an automatic benefit but is a means of supplementing the available resources of eligible decedents, of a decedent’s family, and voluntary contributions from others.

N.J.A.C. 10:90-8.5(a) currently provides the maximum allowance amounts for funeral services and cemetery charges as follows: \$2,246 for funeral services and \$524.00 for cemetery charges for an adult, including any individual two years of age and older; \$1,684 for funeral services and \$393.00 for cemetery charges for a one-week-old through 23-month-old child; and \$1,123 for funeral services and \$262.00 for cemetery charges for a stillborn birth up to six days old. P.L. 2021, c. 476, granted a supplemental appropriation of eight million dollars (\$8,000,000) to increase these amounts. On January 22, 2022, these maximum allowance amounts were increased. The State of New Jersey Budget has provided the Department with funds to maintain these maximum allowance amounts. Consequently, the proposed amendments at N.J.A.C. 10:90-8.5 are necessary to align the WFNJ rules with current Division practices.

The proposed amendments at N.J.A.C. 10:90-8.5(a) provide a restructure of the subsection for organization, flow, and comprehension resulting in the creation of paragraphs (a)1, 2, 3, and 4. Additionally, the proposed amendments at N.J.A.C. 10:90-8.5(a) delete the text “WFNJ-11,

Affidavit and Petition for Payment” and provides a technical correction to the form references to be utilized, with no substantive changes to the forms.

Proposed N.J.A.C. 10:90-8.5(a)1i, ii, and iii provide the maximum allowable rate authorized since January 22, 2022, which county and municipal welfare agencies may contribute toward funeral services for a stillborn birth to an adult. The amounts are as follows: \$3,056 for any individual two years of age or older; \$2,494 for a one-week-old through 23-month-old child; and \$1,933 for a stillborn birth up to six days old.

Proposed N.J.A.C. 10:90-8.5(a)2i, ii, and iii provides the maximum allowable rate authorized, which county and municipal welfare agencies may contribute toward cemetery costs for a stillborn birth to an adult. The amounts are as follows: \$714.00 for any individual two years of age or older; \$583.00 for a one-week-old through 23-month-old child; and \$452.00 for a stillborn birth up to six days old. This language was previously included at N.J.A.C. 10:90-8.5(a) but has been reworded and relocated to the new subparagraphs.

Proposed newly codified N.J.A.C. 10:90-8.5(a)3 provides the permissible expenses that may be authorized and charged towards the funeral services allowance or cemetery costs allowance. This language was previously included at N.J.A.C. 10:90-8.5(a) but has been reworded and relocated to this new paragraph.

Proposed newly codified N.J.A.C. 10:90-8.5(a)4 provides that payments may be authorized for transportation costs if an eligible decedent has chosen to donate their body for medical research. This language was previously included at N.J.A.C. 10:90-8.5(a) but has been reworded and relocated to this new paragraph.

Proposed N.J.A.C. 10:90-8.5(b) rewords a sentence for conciseness and clarification, which provides that the contributor is allowed to designate the contribution, up to the maximum allowed, as the contributor allocates, either to defray the funeral expenses or cemetery costs. This language was previously included at N.J.A.C. 10:90-8.5(b) but has been reworded for clarity.

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

Social Impact

Family Cap Provisions

The proposed repeal of N.J.A.C. 10:90-2.18 and amendments at N.J.A.C. 10:90-1.2, 2.6, 8.2, and 20.4 will have a positive social impact by expanding access to temporary public cash assistance benefits to eligible WFNJ/TANF families with dependent children in a consistent and impartial manner. Further, it will ensure that the most vulnerable and needy WFNJ/TANF families have access to temporary assistance benefits while encouraging employment, self-sufficiency, and family stability.

Funeral and Cemetery Costs

The proposed amendments at N.J.A.C. 10:90-8.5 will have a positive impact on eligible decedents and their families. The increased maximum allowance amounts for funeral services and cemetery costs ensure that eligible decedents receive a proper funeral and burial while limiting additional financial strain on the most vulnerable and needy families. Moreover, the proposed amendments ensure that funeral and cemetery service providers continue to offer these services to eligible decedents.

Economic Impact

Family Cap Provisions

The proposed amendments and repeal will have no economic impact on the State or WFNJ recipients. The family cap provisions had been suspended for fiscal years 2019 and 2020 through the passage and enactment of annual State budget bills. Since July 1, 2018, upon notification and confirmation of an additional child(ren) born to WFNJ/TANF recipient parents and non-recipient parents, the Department has included the additional child(ren) as a new member of the eligible WFNJ/TANF assistance unit when recalculating the monthly grant amount payable to the eligible WFNJ/TANF assistance unit. The State of New Jersey Budget has approved the allocation of funds to cover any additional expenditures as a result of the inclusion of an additional child(ren) born to WFNJ/TANF recipient and non-recipient parents when

recalculating the monthly grant amount payable to eligible WFNJ/TANF assistance units. Furthermore, the proposed amendments and repeal do not impose any fees or costs on WFNJ recipients.

Funeral and Cemetery Costs

The proposed amendments at N.J.A.C. 10:90-8.5(a) will have no economic impact on the State and WFNJ program, as all costs have been addressed through the legislative process. P.L. 2021, c. 476, granted a supplemental appropriation of eight million dollars (\$8,000,000) to implement these maximum allowance amounts. The State of New Jersey Budget has continued to provide the Department with funds to maintain these maximum allowance amounts. The Department does not anticipate any new or additional funding as a result of this proposed rulemaking. Moreover, the proposed amendments at N.J.A.C. 10:90-8.5(a) will have a positive impact on a decedent’s family. The proposed amendments ensure eligible decedents receive a proper funeral and burial while limiting additional economic strain on the most vulnerable and needy families.

Federal Standards Statement

The Department has reviewed the applicable Federal laws and regulations. The proposed amendments and repeal include standards that do not exceed those at 45 CFR Part 260, Temporary Assistance for Needy Families. Therefore, a Federal standards analysis is not required.

Jobs Impact

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

Agriculture Industry Impact

The proposed amendments and repeal will not have an impact on the agriculture industry.

Regulatory Flexibility Statement

The proposed amendments and repeal have been reviewed with regard to the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendments and repeal impose no reporting, recordkeeping, or other compliance requirements on small businesses; thus, a regulatory flexibility analysis is not required. The proposed amendments and repeal govern a public assistance program designed to provide public assistance benefits to eligible low-income individuals, couples, and families with dependent children while encouraging employment, self-sufficiency, and family stability.

Housing Affordability Impact Analysis

The proposed amendments and repeal will have no impact on the affordability of housing in New Jersey. It is highly unlikely that the proposed amendments and repeal would evoke a change in the average costs associated with housing because the proposed amendments and repeal govern a public assistance program designed to provide public assistance benefits to eligible low-income individuals, couples, and families with dependent children while encouraging employment, self-sufficiency, and family stability.

Smart Growth Development Impact Analysis

The proposed amendments and repeal will have no impact on smart growth and there is an extreme unlikelihood that the rule proposed for repeal and amendments would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, pursuant to the State Development and Redevelopment Plan in New Jersey. The proposed amendments and repeal govern a public assistance program designed to provide public assistance benefits to eligible low-income individuals, couples, and families with dependent children while encouraging employment, self-sufficiency, and family stability.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

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

Full text of the rule proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 10:90-2.18.

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

SUBCHAPTER 1. GENERAL PROVISIONS

10:90-1.2 Opportunity and decision to apply

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

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

1. Explaining the programs/services and detailing the applicant's rights and responsibilities including immediate need, his or her mandatory cooperation with Child Support and Paternity (CSP) requirements, work requirements, family violence provisions, personal identification requirements, time limits, [family cap provisions,] requirements for affidavits regarding felony conviction, parole violation, drug conviction, and minor parent requirements;

2.-10. (No change.)

SUBCHAPTER 2. NON-FINANCIAL ELIGIBILITY REQUIREMENTS

10:90-2.6 Family violence

(a) Certain WFNJ program requirements shall be waived for those recipients who have been screened and identified [via] **through** an affidavit as victims of family violence, rape, or incest and assessed by the victim service provider agency (see N.J.A.C. 10:90-20). The program requirements that shall be waived upon request of the individual include, but are not limited to, the following, when compliance would make it more difficult for the individual to escape family violence, or when present, past, or future family violence impacts on the individual's ability to comply:

1.-2. (No change.)

[3. The limitation on an increase of cash assistance benefits as a result of the birth of a child conceived as a result of domestic violence, rape or incest;]

Recodify existing 4.-6. as **3.-5.** (No change in text.)

(b) (No change.)

10:90-2.18 (Reserved)

SUBCHAPTER 8. SPECIAL PROVISIONS FOR PAYMENT OF FUNERAL AND BURIAL EXPENSES

10:90-8.2 Persons who may be eligible

(a) Claims for funeral and burial expenses may be received and considered with respect to:

1.-11. (No change.)

[12. Children who are subject to the family cap provisions of the WFNJ program and its predecessors;]

Recodify existing 13.-19. as **12.-18.** (No change in text.)

(b) (No change.)

10:90-8.5 Authorization of payment

(a) Funeral services and cemetery costs shall be separated and paid separately. Funeral directors [and cemetery representatives] shall [each] complete and submit Form [WFNJ-11] **WFNJ-11M**, Affidavit and Petition for Payment **Mortuary**, to the county or municipal agency to receive payment. [The allowance for adult funeral services, exclusive of cemetery costs, is the total amount charged or \$ 2,246, whichever is less. The cemetery allowance is the sum of all cemetery charges or \$ 524.00, whichever is less. The allowance for a stillborn birth up to six days old is \$ 1,123 for the funeral and \$ 262.00 for the cemetery charge; for a one-week through 23 months old child, \$ 1,684 for the funeral and \$ 393.00 for the cemetery charge; and for a child two years old and up, the adult allowances shall apply. Purchase of an urn when an individual is cremated is a permissible expense and is charged toward the funeral allowance. When ground burial is made of the remains, the cemetery allowance also applies. Crematory charges, as well as burial of the urn are permissible expenses and are to be charged toward the cemetery allowance. The maximum total of allowances for a decedent is the sum of the funeral allowance and the cemetery allowance, as applicable. Payments may be authorized for transportation costs for otherwise eligible Medicaid or

WFNJ recipients who would normally qualify for funeral and cemetery expenses but have chosen to donate their bodies for medical education and research.] **Cemetery representatives shall complete and submit Form WFNJ-11C, Affidavit and Petition for Payment Cemetery, to the county or municipal agency to receive payment. The total maximum allowances for a decedent is the sum of the applicable funeral allowance and cemetery allowance pursuant to (a)1, 2, 3, and 4 below.**

1. The allowance for funeral services, exclusive of cemetery costs are, as follows:

i. The funeral allowance for an adult, which shall apply to decedents two years of age and older, is the total amount charged or \$3,056, whichever is less;

ii. The funeral allowance for a stillborn birth up to six days old is the total amount charged or \$1,933, whichever is less; and

iii. The funeral allowance for a one-week through 23-month-old child is the total amount charged or \$2,494, whichever is less.

2. The allowance for cemetery costs, exclusive of funeral services are, as follows:

i. The cemetery allowance for an adult, which shall apply to decedents two years of age and older, is the sum of all cemetery charges or \$714.00, whichever is less;

ii. The cemetery allowance for a stillborn birth up to six days old is the sum of all cemetery charges or \$452.00, whichever is less; and

iii. The cemetery allowance for a one-week through 23-month-old child is the sum of all cemetery charges or \$583.00, whichever is less.

3. If the decedent is cremated, then purchase of an urn is a permissible expense and charged to the funeral allowance. When a ground burial is made of the decedent's remains, the cemetery allowance also applies. Crematory charges and burial of the urn are permissible expenses and charged to the cemetery allowance.

4. If the eligible decedent has chosen to donate their body for medical education and research, then payments may be authorized for transportation costs which shall not exceed the total maximum allowances, as listed at (a)1 and 2 above.

(b) The payment to be made shall not exceed the maximum allowable rate for funerals and cemetery costs, as delineated [in] at (a) above. The value of any prepaid funeral contract on record shall reduce, dollar for dollar, the funeral and burial allowance. Contributions from next of kin and interested parties up to \$785.00 for a stillborn to six days old, \$1,178 for one week through 23 months old, and \$1,570 for two years old to adult shall be excluded. Amounts exceeding those listed shall be counted in determining the amount to be paid by the agency. [The contributor shall designate the contribution, up to the maximum allowed, as he or she chooses, either to defray the funeral expenses or the cemetery costs.] **The contributor shall designate the contribution, up to the maximum allowed, as the contributor allocates, either to defray the funeral expenses or cemetery costs.**

1. (No change.)

(c) (No change.)

SUBCHAPTER 20. THE FAMILY VIOLENCE OPTION INITIATIVE

10:90-20.4 WFNJ TANF/GA program requirements that may be waived

(a) WFNJ/TANF applicants/recipients may request a WFNJ FVO Waiver of the following WFNJ/TANF program requirements, [under] **pursuant to** the WFNJ FVO Initiative:

1.-3. (No change.)

[4. Limitation on an increase of WFNJ/TANF cash assistance benefits as a result of a child conceived as a result of family violence, (see N.J.A.C. 10:90-2.18(a)4);]

Recodify existing 5.-7. as **4.-6.** (No change in text.)

(b) (No change.)