

## CHAPTER 14

AN ACT concerning welfare reform, supplementing Title 44 of the Revised Statutes and amending P.L.1994, c.147.

**BE IT ENACTED** by the Senate and General Assembly of the State of New Jersey:

C.44:10-44 Definitions relative to welfare reform, eligibility.

1. As used in this act:

"Applicant" means an applicant for benefits provided by the Work First New Jersey program.

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

"Benefits" means any assistance provided to needy persons and their dependent children and needy single persons and couples without dependent children under the Work First New Jersey program.

"Commissioner" means the Commissioner of Human Services.

"County agency" means the county agency that was administering the aid to families with dependent children program at the time the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," Pub.L.104-193, was enacted and which, upon the enactment of P.L.1997, c.14 (C.44:10-44 et al.) shall also administer the Work First New Jersey program in that county.

"Dependent child" means a child:

a. under the age of 18;

b. under the age of 19 and a full-time student in a secondary school or an equivalent level of vocational or technical training, if, before the student attains age 19, the student may reasonably be expected to complete the student's program of secondary school or training; or

c. under the age of 21 and enrolled in a special education program, who is living in New Jersey with the child's natural or adoptive parent or legal guardian, or with a relative designated by the commissioner in a place of residence maintained by the relative as the relative's home.

"Eligible alien" means one of the following:

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

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

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

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

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

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

g. a qualified alien who has been battered or subjected to extreme cruelty in the United States by a spouse, parent or a member of the spouse or parent's family residing in the same household as the alien, or a qualified alien whose child has been battered or subjected to extreme cruelty in the United States by a spouse or parent of the alien, without the active participation of the alien, or by a member of the spouse or parent's family residing in the same household as the alien. In either case, the spouse or parent shall have consented or acquiesced to the battery or cruelty and there shall be a substantial connection between the battery or cruelty and the need for benefits to be provided. The provisions of this subsection shall not apply to an alien during any period in which the individual responsible for the battery or cruelty resides in the same household or assistance unit 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.

For the purposes of this section, "qualified alien" is defined pursuant to the provisions of section 431 of Title IV of Pub.L. 104-193.

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

"Income eligibility standard" means the income eligibility threshold based on assistance unit size established by regulation of the commissioner for benefits provided within the limit of funds appropriated by the Legislature.

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

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

"Recipient" means a recipient of benefits under the Work First New Jersey program.

"Resources" means all real and personal property as defined by the commissioner; except that in the event that individual development accounts for recipients are established by regulation of the commissioner, all funds in such an account, up to the limit determined by the commissioner, including any interest or dividend earnings from such an account, shall not be considered to be a resource.

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

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

"Work First New Jersey program" or "program" means the program established pursuant to P.L. , c. (C. )(pending before the Legislature as Assembly Bill No. 12 of 1996).

#### C.44:10-45 Determination of eligibility for benefits.

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

b. A recipient, as a condition of eligibility for benefits, shall, subject to good cause exceptions as defined by the commissioner, be required to: do all acts stated herein necessary to establish the paternity of a child born out-of-wedlock, and to establish and participate in the enforcement of child support obligations; cooperate with work requirements established by the commissioner; make application for any other assistance for which members of the assistance unit may be eligible; be income and resource eligible as defined by the commissioner, including the deeming of income and resources as appropriate; provide all necessary documentation which shall include the federal Social Security number for all assistance unit members, except for an eligible alien who cannot be assigned a Social Security number due to his status, or make application for same; sign an agreement to repay benefits in the event of receipt of income or resources; and

comply with personal identification requirements as a condition of receiving benefits, which may employ the use of high technology processes for the detection of fraud.

c. Notwithstanding any other provision of law or regulation to the contrary, 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 therefor shall render the applicant and the applicant's assistance unit 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.

C.44:10-46 Eligibility for persons with less than one year of State residence.

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

C.44:10-47 Disclosure of applicant information.

4. Information concerning applicants or recipients shall not be disclosed except for purposes directly connected with the administration of the program, in accordance with regulations to be adopted by the commissioner. Any person or entity under contract to provide services to the program shall comply with these regulations. The provisions of this section shall not be construed to prohibit the exchange of information among agencies, organizations, or other entities as prescribed by the commissioner or pursuant to federal requirements.

C.44:10-48 Eligibility of citizens, eligible aliens.

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

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

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

(2) Supplemental Security Income recipients, except for the purposes of receiving emergency assistance benefits pursuant to section 8 of P.L.1997, c.14 (C.44:10-51);

(3) illegal aliens;

(4) other aliens who are not eligible aliens;

(5) a person absent from the home who is incarcerated in a federal, State, county or local corrective facility or under the custody of correctional authorities, except as provided by regulation of the commissioner;

(6) a person who: is fleeing to avoid prosecution, custody or confinement after conviction, under the laws of the jurisdiction from which the person has fled, for a crime or an attempt to commit a crime which is a felony or a high misdemeanor under the laws of the jurisdiction from which the person has fled; or is violating a condition of probation or parole imposed under federal or state law;

(7) a person convicted on or after August 22, 1996 under federal or state law of any offense which is classified as a felony or crime, as appropriate, under the laws of the jurisdiction involved

and which has as an element the possession, use, or distribution of a controlled substance as defined in section 102(6) of the federal "Controlled Substances Act" (21 U.S.C. §802 (6)); except that a person convicted of any such offense which has as an element the possession or use only of such a controlled substance may be eligible for benefits if the person has successfully completed a drug treatment program approved by the commissioner. Eligibility for benefits shall commence upon completion of the drug treatment program, except that during the first 60 days after completion of the 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 determined to not be free of any controlled substance during the 60-day period, the person's eligibility for benefits pursuant to this paragraph shall be terminated. 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 completion of a drug treatment program;

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

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

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

#### C.44:10-49 Assignment of child support rights by signing application for benefits.

6. a. The signing of an application for benefits under the Work First New Jersey program shall constitute an assignment of any child support rights pursuant to Title IV-D on behalf of individual assistance unit members to the county agency. The assignment shall terminate with respect to current support rights when a determination is made by the county agency that the person in the assistance unit 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. Effective no later than July 1, 1997, the county agency shall pass through to the assistance unit the full amount of the current child support collected on behalf of a child in those circumstances defined by the commissioner.

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

#### C.44:10-50 Absent child, eligibility for benefits.

7. 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 as 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 stipulated in regulations adopted by the commissioner shall be cause for denial or termination of benefits for that dependent child.

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

#### C.44:10-51 Provision of emergency assistance.

8. a. Emergency assistance shall be provided only to recipients of Work First New Jersey and persons receiving Supplemental Security Income pursuant to P.L.1973, c.256 (C.44:7-85 et seq.) in emergent situations, as determined by the commissioner, for up to 12 cumulative months; except that:

(1) the commissioner may provide for an extension of emergency assistance for up to six additional months to an assistance unit with dependent children, if the commissioner determines that a case of extreme hardship exists. The commissioner shall review each such case on a monthly basis during the six-month period and shall continue the emergency assistance only if the commissioner determines, based upon the monthly review, that the extreme hardship continues to exist. If the extreme hardship continues to exist at the end of the six-month period, the commissioner may provide an additional six months of emergency assistance to no more than 10% of those assistance units with dependent children which are receiving temporary rental assistance under the emergency assistance component of the program, based upon the most current data available; and

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

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

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

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

d. The provisions of this section shall apply to a person who receives general public assistance pursuant to P.L.1947, c.156 (C.44:8-107 et seq.) after the effective date of this act and is subsequently transferred directly into the Work First New Jersey program.

#### C.44:10-52 Opportunity for hearing.

9. The commissioner shall assure that an applicant or recipient shall be afforded the opportunity for a hearing if the 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. A recipient shall continue to receive the recipient's current benefits pending the outcome of the hearing. The hearing shall be conducted by the Office of Administrative Law in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

#### C.44:10-53 Waiving compliance with Work First New Jersey program for certain projects.

10. In the case of an experimental, pilot or demonstration project which in the judgment of the commissioner is likely to 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 the commissioner deems necessary to carry out the project and for a period of time not to exceed three years, during which time the commissioner shall report to the Legislature on the progress of the project at least every six months; except that the commissioner shall not waive compliance with the provisions of subsection h. of section 8 of P.L. , c. (C. ) (pending before the Legislature as Assembly Bill No.12 of 1996) or implement

a pilot or demonstration project that circumvents or obstructs a collective bargaining agreement. The commissioner shall provide an opportunity for public comment prior to the implementation of the project. The commissioner shall establish any fiscal or evaluative terms and conditions for the project that he deems appropriate.

11. Section 1 of P.L.1994, c.147 (C.44:8-111.1) is amended to read as follows:

C.44:8-111.1 Centralized registry established; updating of information.

1. The Commissioner of Human Services shall establish a centralized registry in the Division of Family Development of the Department of Human Services to contain the names and Social Security numbers, and such additional identifying information as the commissioner deems appropriate, of recipients of benefits under P.L. , c. (C. )(pending before the Legislature as Assembly Bill No. 12 of 1996). Each of the entities administering public assistance designated by the commissioner shall provide such information and assistance as the commissioner may request to carry out the provisions of P.L.1994, c.147 (C.44:8-111.1 et seq.). The commissioner shall provide for the periodic updating of the information contained in the registry.

12. Section 2 of P.L.1994, c.147 (C.44:8-111.2) is amended to read as follows:

C.44:8-111.2 Registry information made available; provision for comparison checks.

2. a. The commissioner shall make the information in the centralized registry established pursuant to section 1 of P.L.1994, c.147 (C.44:8-111.1) available to those states which are contiguous to New Jersey and shall seek to establish an arrangement for the reciprocal provision of similar information from these states to the Division of Family Development.

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

C.44:10-54 Rules, regulations.

13. The commissioner, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate the purposes of this act and to comply with the requirements of Pub.L.104-193.

14. This act shall take effect immediately .

Approved January 29, 1997.