

COMMUNITY AFFAIRS

(a)

DIVISION OF LOCAL GOVERNMENT SERVICES

**Local Finance Board; Local Authorities
Levy Cap Exclusion for Extraordinary Expenses Due to Emergencies**

Proposed New Rules: N.J.A.C. 5:30-3.9 and 5:31-2.10

Authorized By: Lori Grifa, Commissioner, Department of Community Affairs.

Authority: N.J.S.A. 40A:4-45.45.b.

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

Proposal Number: PRN 2012-037.

Submit written comments by May 4, 2012 to:

Marc H. Pfeiffer, Deputy Director
Division of Local Government Services
Department of Community Affairs
PO Box 803
Trenton, NJ 08625-0803

The agency proposal follows:

Summary

The proposed new rules implements a provision of N.J.S.A. 40A:4-45.45.b that directs the Commissioner of Community Affairs to promulgate a regulation that defines extraordinary costs incurred by a local unit directly related to a declared emergency to be treated as an exclusion to a county, municipal, or fire district property tax levy. In proposing the rules, the Commissioner has determined that consultation with the Commissioner of Education is not appropriate as public schools are not affected by the proposed rules.

Two rules with identical provisions are proposed: N.J.A.C. 5:30-3.9 affecting municipalities and counties, and N.J.A.C. 5:31-2.10 affecting fire districts.

The proposed new rules define “extraordinary costs” as expenditures incurred for the immediate preparation, response, recovery, and restoration of public services due to extreme weather conditions or other catastrophic events that were not anticipated in the current budget year and subject to the terms of a gubernatorial emergency declaration. Further, only that portion of costs exceeding the cost of providing services under non-emergency conditions shall be granted as property tax levy cap exclusions. Such funds can be treated as one-time (non-permanent) property tax levy cap exclusions upon submission and review of certifications describing the expenditures to the Director of the Division of Local Government Services. The amount excluded may be subject to adjustment to account for the receipt of State or Federal reimbursements.

As the Department has provided a 60-day comment period on 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

The proposed new rules would permit counties, municipalities, and fire districts to budget more effectively due to address a declared emergency.

Economic Impact

The Department anticipates that counties, municipalities, and fire districts would have clarity with respect to financing declared emergencies in their areas or regions.

Federal Standards Statement

No Federal standards analysis is required because the new rules are not being proposed in order to implement, comply with, or participate in any program established under Federal law or under a State law that incorporates or refers to Federal law, standards, or requirements.

Jobs Impact

The Department does not anticipate that any jobs will be created or lost as a result of the proposed new rules.

Agriculture Industry Impact

The Department does not anticipate that the proposed new rules would have an impact on the agriculture industry.

Regulatory Flexibility Statement

The proposed new rules would affect local units and authorities affected by an emergency declared by the Governor. The proposed new rules would not impose any reporting, recordkeeping, or compliance requirement on “small businesses,” as defined by the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., nor would the rules require them to obtain any professional services.

Housing Affordability Impact Analysis

There is an extreme unlikelihood that the proposed new rules would evoke a change in the average costs associated with housing. The proposed new rules, pursuant to N.J.S.A. 40A:4-45.5.b, define extraordinary costs incurred by a local unit directly related to a declared emergency to be treated as an exclusion to a county, municipal, or fire district property tax levy.

Smart Growth Development Impact Analysis

There is an extreme unlikelihood that the proposed new rules would evoke a change in the housing production within Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan. The proposed new rules, pursuant to N.J.S.A. 40A:4-45.5.b, define extraordinary costs incurred by a local unit directly related to a declared emergency to be treated as an exclusion to a county, municipal, or fire district property tax levy.

Full text of the proposed new rules follows:

CHAPTER 30
LOCAL FINANCE BOARD

SUBCHAPTER 8. FINANCIAL ADMINISTRATION

5:30-3.9 Property tax levy cap exclusion for extraordinary expenses due to emergencies

N.J.S.A. 40A:4-45.45.b authorizes an exclusion to the municipal and county property tax levy cap for “extraordinary costs” related to a declared emergency. For the purpose of this law, “extraordinary costs” are defined as expenditures incurred for the immediate preparation, response, recovery, and restoration of public services due to extreme weather conditions or other catastrophic events that are the subject of a gubernatorial emergency declaration, and only for that portion of costs exceeding the cost of providing services under non-emergency conditions. Such funds can be treated as one-time (non-permanent) property tax levy cap exclusions upon submission and review of certifications describing the expenditures to the Director of the Division of Local Government Services, and may be subject to adjustment to account for the receipt of any State or Federal reimbursements.

CHAPTER 31
LOCAL AUTHORITIES

SUBCHAPTER 2. BUDGETS

5:31-2.10 Fire district property levy cap exclusion for extraordinary expenses due to emergencies

N.J.S.A. 40A:4-45.45.b authorizes an exclusion to the municipal and county property tax levy cap for “extraordinary costs” related to a declared emergency. For the purpose of this law, “extraordinary costs” are defined as expenditures incurred for the immediate preparation, response, recovery, and restoration of public services due to extreme weather conditions or other catastrophic events that are the subject of a gubernatorial emergency declaration, and only for that portion of costs exceeding the cost of providing services under non-emergency conditions. Such funds can be treated as one-time (non-permanent) property tax levy cap exclusions upon submission and review of

certifications describing the expenditures to the Director of the Division of Local Government Services, and may be subject to adjustment to account for the receipt of any State or Federal reimbursements.

HUMAN SERVICES

(a)

DIVISION OF FAMILY DEVELOPMENT

Work First New Jersey

Work First New Jersey Program Requirements, Housing Subsidy Program, and Supplemental Living Support Program

Proposed Amendments: N.J.A.C. 10:90-1.2, 1.5, 2.2, 2.8, 2.9, 3.5, 3.6, 3.19, 4.1, 6.1, and 15.1

Proposed Repeals: N.J.A.C. 10:90-5.13 and 5.14

Authorized By: Jennifer Velez, Commissioner, Department of Human Services.

Authority: N.J.S.A. 30:1-12.

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

Proposal Number: PRN 2012-039.

Submit comments by May 4, 2012 to:

Miguel Mendez, Administrative Practice Officer
Division of Family Development
P.O. Box 716
Trenton, New Jersey 08625-0716
E-mail: Miguel.Mendez@dhs.state.nj.us

The agency proposal follows:

Summary

As the Department of Human Services (Department) is providing a 60-day comment period on 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.

Under section 4001 of the Food, Conservation, and Energy Act of 2008, P.L. 110-246, enacted June 18, 2008, the State has the option to use New Jersey Supplemental Nutrition Assistance Program or its acronym "NJ SNAP," or it may continue to use other State-specific program names. As a result, the Department proposes to replace all references that are contained throughout the sections proposed for amendment with the term New Jersey Supplemental Nutrition Assistance Program or its acronym "NJ SNAP," as appropriate. The Department is proposing an amendment to N.J.A.C. 10:90-15.1 to add the acronym "NJ SNAP" to the list of definitions; also, a definition is added to that section for "LWD" to mean the New Jersey Department of Labor and Workforce Development, as that is also an acronym used throughout the amendments proposed below.

The Department proposes amendments to N.J.A.C. 10:90-1.2(f)8 and 9 and 1.5 to provide that eligibility for cash assistance for employable Work First New Jersey (WFN)/General Assistance (GA) applicants shall commence after completing a minimum 28-day employment-related activity requirement through the Department of Labor and Workforce Development (LWD). GA cash assistance benefits will not be issued retroactively. The proposed amendments also provide for a 30-day period of ineligibility for applicants who fail to complete the 28-day employment activity without good cause. The penalty shall begin on the date of the denial for failure to complete the assigned activity. The amendment to N.J.A.C. 10:90-1.5 further provides for the availability of immediate need, medical care, and other WFNJ benefits in accordance with the immediate needs provision at N.J.A.C. 10:90-1.3. NJ SNAP may also be available for these applicants.

N.J.A.C. 10:90-2.2(a)2 is proposed for amendment to expand upon the eligibility requirements for WFNJ/GA applicants to include that applicants must also participate in a minimum 28-day employment-

related activity as determined by LWD, before eligibility can be established.

N.J.A.C. 10:90-2.8(a)15 is proposed for amendment by modifying the existing language to reflect that an applicant or recipient between the ages of 18 and 26 is ineligible for WFNJ/GA, if he or she is being claimed as a dependent by his or her parent or other relative for Federal income tax purposes. The Department also proposes an amendment to paragraph (a)16 by modifying the existing language to reflect that an adult applicant or recipient over age 60 is ineligible for WFNJ/GA if he or she is being claimed as a dependent by his or her adult child or other relative for Federal income tax purposes.

N.J.A.C. 10:90-2.9(a)2x(1) is proposed for amendment to require that a WFNJ/GA recipient be classified unemployable by an examining physician for six continuous months before the cash assistance benefit will be adjusted to the unemployable rate.

N.J.A.C. 10:90-3.5 is proposed for amendment to delete all references in Schedule III and IV to income levels, assistance units, and payment levels for households consisting of three or more individuals because GA assistance is only available for single individuals or couples without dependent children.

N.J.A.C. 10:90-3.6 is proposed for amendment to delete all references in Schedule V to assistance units and payment levels for households consisting of three or more individuals because GA assistance is only available for single individuals or couples without dependent children.

N.J.A.C. 10:90-3.19(a)13 is proposed for deletion to remove Supplemental Living Support Program payments as an exempt income for eligible WFNJ/TANF and unemployable GA recipients, as this program will be eliminated through the proposed repeal of N.J.A.C. 10:90-5.14 as discussed in the Summary below.

N.J.A.C. 10:90-4.1(a)1 is proposed for amendment to require that for WFNJ/GA applicants, the cooperation process begins at application with the requirement of a minimum 28-day participation in an employment-related activity as determined by LWD before WFNJ eligibility can be established.

The Department proposes to repeal N.J.A.C. 10:90-5.13. The Housing Subsidy Program ended in 2004 because it was unsuccessful in assisting the Department in achieving its goal of providing housing stability for all WFNJ recipients.

The Department also proposes to repeal N.J.A.C. 10:90-5.14. The Supplemental Living Support Program provides an additional \$150.00 per month to WFNJ recipients who were exempt from the 60-month time limit on receipt of WFNJ benefits due to unemployability.

Due to program funding cuts, the Department is no longer able to maintain the Supplemental Living Support Program.

The Department proposes to amend N.J.A.C. 10:90-6.1(a) to include that emergency assistance (EA) is also available to recipients of Supplemental Security Income (SSI). Paragraph (a)1 is proposed to include that EA is available to SSI recipients when shelter costs equal or exceed total recorded income and there is no other source of income available to assist in meeting the housing need.

Social Impact

The proposed amendments contained in N.J.A.C. 10:90-1.2 and 1.5, which provide that benefits will not be issued retroactively for employable WFNJ/GA applicants who complete the required minimum 28-day employment-related activity participation through LWD, will initially have a negative impact on applicants because they will receive cash assistance benefits from the date that eligibility is determined, not the application date. However, their emergent needs such as housing, medical care, and transportation will be met during that time in accordance with the immediate need provisions at N.J.A.C. 10:90-1.3. These applicants may also be eligible for the NJ SNAP program.

The proposed amendment at N.J.A.C. 10:90-2.9(a)2x(1), which provides that the cash assistance benefit shall be issued at the employable rate until the recipient is determined unemployable for a minimum of six continuous months by the examining physician, and others whose unemployable status fluctuates from month-to-month will remain classified as employable until such time as the recipient has been determined unemployable by an examining physician will be negatively impacted by the delay in receipt of unemployable rate. Recipients