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## **1. General Provision**

### **1.1. Fair hearings**

- (a) Any household is entitled to, and upon request will receive, an administrative review or a fair hearing if any of the following occurs:
1. The household's application is denied;
  2. The household's application is neither approved nor denied within 30 days after application, unless the delay was caused by the household's lack of cooperation in providing necessary and reasonable evidence.
  3. The benefit is less than the household believes it should be; or
  4. The benefit will be paid in a lesser amount than the household was notified.
- (b) Each household requesting a hearing will receive an initial review on the papers available to the Department of Community Affairs' (DCA's) Division of Housing and Community Resources (DH&CR). The results of this administrative review will be conveyed to the household in writing, whereupon the household may either accept the findings of the DH&CR as the final decision or indicate its desire to proceed with a fair hearing.
- (c) The fair hearings process will be in accordance with established Work First New Jersey (WFNJ) program fair hearings procedures contained in N.J.A.C. 10:90-9.

### **1.2. Program funding**

Home Energy Assistance is funded entirely through a grant from the U.S. Department of Health and Human Services. All payments authorized by this chapter are contingent upon the availability of these funds.

### **1.3. Prudent person concept**

While this chapter attempts to minimize discretionary action on the part of individuals administering Home Energy Assistance, there are situations which are only generally covered by existing policy guidelines. In cases of this nature, the community based organization (CBO) or county welfare agency (CWA) worker shall be expected to make a judgment, based on his or her experience and/or knowledge of the program, which can be defended as both reasonable and prudent. Any such circumstance shall be fully

documented in the case record. Questionable situations for which the worker cannot make such judgment should be referred to DCA.

#### **1.4. Confidentiality**

The CBO/CWA shall restrict the use or disclosure of information obtained from applicant or recipient households to persons directly connected with the administration of the Low Income Home Energy Assistance Program (LIHEAP) and other governmental related programs. Additionally, data shared with fuel suppliers is confidential and is only for purposes directly connected with the administration of public assistance and the determination of eligibility for Universal Service Fund (USF) and other energy assistance programs.

## **2. Program Eligibility**

### **2.1. General**

In order to receive Home Energy Assistance benefits, the household must meet the eligibility requirements found in this chapter and must make application in accordance with Section 4 (Application Process) of this handbook or be entitled to automatic payments in accordance with Section 3.1. All Home Energy Assistance benefits must be used to offset current costs of home energy.

### **2.2. Eligibility Requirements**

(a) The household members shall be residents of New Jersey.

1. The term "household" means any individual or group of individuals who are living together as one economic unit for whom home energy is customarily provided in common or who make undesignated payments for energy in the form of rent. Specifically:

i. If there is one central source of residential heating (for example, one furnace) there is one household; except that,

1. If there is one central source of residential heating but the building contains multiple dwelling units or apartments, each apartment may be considered a separate household; except that,

2. If the building is a licensed boarding home, Residential Health Care Facility or community recognized boarding facility, each resident may be considered a separate household;
  3. If a business only (roomer-boarder) relationship exists, where one person is paying for living space in the dwelling of another, the roomer-boarder may be considered a separate household. For such relationship to be established, the payments for room and board must be reasonable, considering the total shelter and heating cost for the person supplying the room and board. Further, the relationship must be one which would immediately terminate if the payment between the parties ceased.
2. The term "resident" shall be interpreted to mean any person living in the State voluntarily or residing in the State having entered with a job commitment or seeking employment even if he or she is currently unemployed.
  3. In most cases, aliens are eligible for Home Energy Assistance benefits. Qualified aliens defined in Section 431 of the Federal Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996, P.L. 104-193, if otherwise eligible, may receive LIHEAP benefits.
    - i. Qualified aliens are defined as legal immigrants that include, but may not be limited to: legal permanent residents, refugees, asylees, individuals paroled into the United States for a period of at least one year, individuals whose deportation has been withheld, individuals granted conditional entry, and certain individuals who are victims of domestic abuse.
  4. In cases where a non-qualified alien resides within an applicant household, the non-qualified alien must be excluded from the HEA household size. If the non-qualified alien has monthly income in excess of \$300.00, the amount in excess of \$300.00 shall be counted as income to the household, and must be added to all other household income in determining the household's gross monthly income.
- (b) The household must pay for its own heating/cooling costs or be eligible as a renter who pays its landlord according to usage or whose heating/cooling costs are included in its rent.
  - (c) The value of resources is not considered in the determination of eligibility for benefits under this program; however, unearned income as defined in Section 2.3(d) is countable.
  - (d) The following households are not eligible for energy payments:

1. Households residing in publicly operated housing where their heat is included in their rent or is receiving a rent subsidy which includes all heating costs. Energy costs included in rent which is subsidized do not qualify as out-of-pocket payments for heating cost.
2. Persons for whom non-household members pay heating/cooling costs;
3. Households consisting entirely of students who are tax dependents of another household; and
4. Households whose total income, including any TANF, GA or SSI grants, exceeds the total income eligibility standards in Section 2.3(a).

### **2.3 Income Eligibility**

- (a) In order to be income eligible for the program, a household's monthly gross earned and unearned income may not exceed the monthly allowable gross income limit for the household size. On an annual basis, the Department of Community Affairs shall revise the income guidelines based on the current Federal Poverty Index, which is published annually in the Federal Register by the Federal Department of Health and Human Services. The Department will use 200 percent of the current Federal Poverty Index as the maximum gross income amount for LIHEAP eligibility. However, income eligibility may not exceed 60 percent of the State median income.
- (b) Regardless of income eligibility, the following households are not eligible for program benefits:
  1. Persons residing in publicly operated housing unless the household can demonstrate that it has direct responsibility for payment of its heating costs. Energy costs included in rent which is subsidized do not qualify as out-of-pocket payments for heating costs;
  2. Persons receiving a rent subsidy which includes all heating costs. Energy costs included in rent which is subsidized do not qualify as out-of-pocket payments for heating costs;
  3. Persons for whom non-household members pay for the costs of heating/cooling fuel;
  4. Residents of any licensed medical facility (hospital, skilled nursing facility or intermediate care facility), publicly operated community residence, or center for the treatment of drug and/or alcohol abuse; and
  5. Households consisting entirely of students who are tax dependents of another household.

- (c) Earned income refers to gross income earned by an individual through the receipt of wages, tips, salaries or commissions from activities in which he or she is engaged as an employee or from his or her self-employment. It includes earnings over a period of time for which settlement is made in one payment, as in the sale of farm crops.
1. For the purpose of this program, countable income from self-employment is the gross proceeds of a trade, business or enterprise, adjusted by deducting business expenses or cost of producing the income. Personal expenses, income tax payments, lunches, transportation, child care, etc., are not classified as business expenses for this purpose.
    - i. Persons who are self-employed shall be required to submit evidence of business receipts and expenditures as the basis for a sound estimate of earned income. A reliable, accurate accounting system or the method utilized in reporting to the Internal Revenue Service shall be acceptable for determining countable net income.
- (d) Unearned income refers to the receipt, by the household, of any property or service not included in (c) above which the household may apply, either directly or by sale or conversion, to meet basic needs for food, clothing, and shelter. Included in this definition are returns from capital investment such as dividends and interest, benefits and pensions, annuities, contributions, compensation payments, and receipts from the rental of property.
- (e) The following income is not considered in the determination of gross income for this program:
1. Loans which are not to be used to meet current living costs and which are held and used in accordance with the conditions of the loan. Personal loans are excluded when such loans are evidenced by a document, signed by the borrower and the lender, which states the amount of the loan and terms of repayment (this includes loans from financial institutions);
  2. Any scholarship, grant, or student loan received by a student so long as the student continues to attend school;
  3. Earned income of a student, who is a member of a larger household, enrolled in any school or training program full-time which is recognized by the Federal, State or local government;
  4. The value of home produce;
  5. The value of food stamp benefits;
  6. Benefits provided under the State Lifeline Program including supplemental payments under the Tenants Lifeline Assistance program which are included in the SSI check;

7. Benefits from energy assistance programs, including Universal Service Fund (USF), Lifeline, and New Jersey Statewide Heating and Referral for Energy Services (NJSHARES);
8. Income excluded by law:
  - i. Reimbursements from the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970.
  - ii. Any payment under Title II (RSVP, foster grandparents, and other) and Title III (SCORE and ACE) of the Domestic Volunteer Services Act of 1973, as amended, shall be excluded.
  - iii. Payments from the Crisis Intervention Program administered by the Community Services Administration.
  - iv. Payments received from the Youth Incentive Entitlement Pilot Projects, the Youth Community Conservation and Improvement Projects, and the Youth Employment and Training Programs under Title IV of the Comprehensive Employment and Training Act Amendments of 1978 (Public Law 95-524).
  - v. Payments received by eligible parents under the Child Care and Development Block Grant (CCDBG) shall not be counted as income when determining eligibility or benefit levels under LIHEAP.
  - vi. Payments made to individuals because of their status as victims of Nazi persecution shall not be counted as income when determining eligibility under LIHEAP.
  - vii. Wages and or salaries, including any training allowances under the Green Thumb Program, are to be excluded when determining eligibility under LIHEAP.
9. Medicare Part B Buy-In which is withheld from the household's Social Security check.
- f. Countable gross monthly earned and unearned income, as defined in (c) and (d) above, and verified in accordance with Section 4.1(d), shall be added to determine the household's total gross monthly income. If the monthly gross income does not exceed the income standard (see (a) above) for the household size, the household is income eligible for Home Energy Assistance.
  1. Agencies should submit zero income verification request to DCA when any adult household member over the age of eighteen years of age claims not to receive income from any source; with the exception of full time students, who are members of a larger household, with full time enrollment in any school or training program

which is recognized by the Federal, State or local government. A written verification such as a letter from the institution or class schedule showing they are taking more than 12 credits per semester must be provided. This information is to be maintained in the case record. Zero income requests should not be submitted for full time students, with the exception of:

2. The head of household and or spouse declaring full time student status. Their income will be counted as household income unless all the income reported is derived from any scholarship, grant, or student loan received by a student so long as the student continues to attend school; otherwise, any other source of income will be counted. If they declare not receiving income from any source an income verification request should be submitted to DCA.
3. Parents receiving Social Security or SSI benefits on behalf of their children cannot be considered as not having any source of income.
4. In any household reporting less than \$100.00 in monthly income, the head of household shall be required to document how the household has been supporting itself. Such documentation may include, but is not limited to, checking or savings accounts statements documenting withdrawals, recent prior pay stubs or unemployment, welfare, disability, SSI, or social security benefits statements. In addition, a copy of a recent application for unemployment, social security, welfare, SSI or disability benefits may be accepted. If the household has been supporting itself by other means, such documentation as appropriate to the source of income, shall be accepted.
  - i. Any household reporting less than \$100.00 in monthly income, in two consecutive years, the head of household shall be required to document how the household has supported itself for the past year as referenced in (d)2 above.
5. For the purpose of this program, the household shall consist of all persons residing within a single residential unit.
6. Tax dependent college students who are absent from the household solely because of college attendance must be included in the household size for the determination of eligibility.
7. Foster children placed with a family by NJ Department of Children and Families (NJDCF) are to be included in the household size and the allowance paid by NJDCF is to be included in the household's income.
8. Roomer-boarders residing with an applicant household are not to be included in the

household size and the income of such individuals is not to be considered in the eligibility determination. However, any income provided to the HEA applicant household by the roomer-boarder in excess of \$250.00 per month shall be considered in determining the household's gross monthly income.

- i. The only exception to (f)8 above will occur if the roomer-boarder is a spouse, parent, grandparent, child, brother or sister of a household member. In such instances, the roomer-boarder shall be included in the household size and his or her gross monthly income considered as part of the household's income in determination of eligibility.
9. If a household member receives Social Security benefits and/or SSI the CBO must determine the countable income as follows:
- i. For individuals receiving Social Security benefits the net amount of the monthly check is countable. If the household presents an award letter rather than a check as evidence of income, the CBO must determine if the individual pays a Medicare Part B premium and deduct that amount from the gross amount of the benefit. The resulting balance shall be considered as income to the household.
  - ii. For individuals receiving SSI the CBO shall deduct the supplemental payment amount from the Tenants Lifeline Credit program which is included in the SSI check. The balance shall be considered as income to the household.
10. Households placed in rental assistance slots utilizing temporary emergency funding made available through the State's emergency assistance initiatives will not be excluded from eligibility for Home Energy Assistance as a tenant whose heat is included in rent.

### **3. Program Benefits**

#### **3.1. Automatic payments to certain households**

(a) Recipient households:

1. Certain households eligible for Supplemental Nutrition Assistance Program (SNAP) and Pharmaceutical Assistance for the Aged and Disable (PAAD) will receive automatic payments based on the information regarding income, household size, heating arrangement and fuel type contained in computer records maintained by the Division of Family Development. This information will be collected from the head of the household at each application, reapplication or recertification for SNAP and will

be updated whenever the household reports a change. The automatic HEA payment will be extracted from the DFD Family Assistance Management Information System (FAMIS). The households which may be extracted include certain households eligible for and receiving SNAP. The case must have an appropriate heating indicator and contain a payee with a valid Social Security number (SSN). The household must have a current monthly income which is less than or equal to the program's standards. Additionally, there must be no duplication of SSNs or any disqualifying information which would lead to non-selection of the case. Those households non-selected for an automatic payment may be eligible for benefits. They will receive a notice instructing them where to apply. Households which are responsible for primary fuel costs associated with residential heat shall receive a benefit based on the appropriate benefit level for the household's size, income, fuel type and heating region.

- i. Automatic payments will only be made during the heating season. Entitlements will be paid in one installment. Households which do not receive automatic payments must submit an application to receive HEA.
  - ii. The entitlement will be paid as a full benefit to all households.
2. Eligible households which heat by electricity or natural gas will receive the automatic payment(s) in the form of a direct transfer to the utility when a valid utility account number or other acceptable match criteria exists on the SNAP extract. Match criteria shall be collected during the SNAP eligibility determination or redetermination process. Households which heat by oil, coal, wood, propane, and kerosene or do not have a valid account number or other acceptable match criteria on the HEA Masterfile will receive the automatic payment(s) in the form of a two party check payable to the head of household and the generic co-payee "Your Heating Supplier.

### **3.2. Applications**

- (a) Upon application at the CBO, or outreach site, eligible households which have not received or will not receive automatic benefits in accordance with Section 3.1, shall receive energy assistance in accordance with this section. In order to be eligible for home energy assistance, the household must be income eligible (see Section 2.3).
- (b) No home energy assistance shall be authorized to households whose heating costs are paid by others outside the household.
- (c) No special assistance shall be authorized to households residing in publicly operated housing or receiving a rent subsidy, unless the household can demonstrate that it has direct responsibility for payment of its heating costs.
- (d) Applications shall not be authorized for households residing in any licensed medical

facility (hospital, skilled nursing facility or intermediate care facility), publicly operated community residence or center for the treatment of drug and/or alcohol abuse.

- (e) Applications shall not be authorized for households consisting entirely of students who are tax dependents of another household.
- (f) Households responsible for heating costs:
  - 1. Households which are responsible for primary fuel costs associated with residential heat shall receive a benefit based on the household's size, income, fuel type and heating region, as referenced in Section 3.6(a).
    - i. Fuel types are electricity, natural gas, oil, propane, kerosene, coal, wood and heat included in rent.
  - 2. Households whose heat is included in the rent, or who pay a separate fuel charge to their landlord, shall receive benefits as heat included in the rent fuel type.
  - 3. The household must provide evidence that it is responsible for payment of fuel costs.
  - 4. A household directly responsible to a public utility for payment of heating costs will receive the energy benefit in the form of a direct transfer to the utility. The benefit will be transferred directly to the client's utility company with the client receiving notification. A household directly responsible to other participating fuel suppliers will receive the benefit in the form of a two party check. The check will be payable to the head of household and "Your Heating Supplier".
  - 5. For cases in which an applicant indicates that he or she is using a kerosene heater as the primary heat source in an area in which zoning ordinances have declared that type of heater illegal, kerosene shall not be considered the household's main source of heat on the HEA application. In such situations the CBO must advise applicants of the legal implications of using that form of heater and provide them with information regarding any available programs which may assist them in the establishment of an alternate heating source.
    - i. In any situation in which the applicant is uncooperative in securing a new heating source, the CBO must document in the case record that the applicant was advised of the illegality of the use of kerosene heaters and was counseled regarding existing alternatives. Home energy assistance payments shall not be authorized to supplement illegal heating sources.

### **3.3. Cooling assistance**

- (a) Income eligible households for which there is medical evidence that the health of at least one household member will be seriously endangered unless the household's living quarters are cooled, shall receive a one-time per season benefit in the amount to be established by the program administrator (NJDCA) that will be subject to the proper verification by the CBO and DCA.

### **3.4. Emergency energy assistance**

- (a) Emergency energy assistance is available to HEA eligible households and is subject to the following conditions:
  1. An energy emergency shall exist when a heating paying household is without heat or is in danger of being without heat and has insufficient income available to purchase fuel.
  2. The emergency must be verified by client affidavit and collateral contact where this is possible and deemed necessary by the CBO.
  3. The amount of any emergency assistance payment shall be the lowest amount charged for the service performed by the household's energy supplier or for the purchase of fuel, but shall not exceed the maximum amount established by the program administrators (NJDCA) during the HEA season: to be used in the initial purchase of fuel oil, electricity, natural gas, bottled gas, kerosene, wood or coal. The fee for restoration of utility service shall not be counted toward the maximum EA amount established by the program administrator, for the initial purchase of electricity or natural gas. An additional emergency benefit of up to the amount established by the program administrator may be issued to deter electric service disconnection for household who pay for their own heating costs.
  4. The client shall be required to account for the use of all funds received under the program prior to the request for emergency assistance. The CBO shall evaluate the request for emergency assistance with the understanding that any benefits previously provided to the client under this section or Section 3.1 - Automatic payments to certain households – DFD, PAAD and Section 3.2 - Applications - DCA/CBO, were intended to defray the cost of home heating fuel for the current heating season.
  5. The CBO shall, no later than 48 hours after a household or its representative signs the declaration of energy emergency, provide some form of assistance that will resolve the energy crisis if such household is eligible to receive such benefits.

6. The CBO shall also, not later than 18 hours after a household or its representative signs the declaration of energy emergency, provide some form of assistance that will resolve the crisis if such household is eligible to receive such benefits and is in a life-threatening situation.
  7. All emergency energy assistance is subject to the availability of funds.
  8. Emergency energy assistance will be authorized only at the discretion of the program administrator during any time of the HEA season. Emergency assistance will be available for all fuel sources except electric and natural gas until March 15. Utility and gas emergencies will begin March 15 and will be available until April 30 or by the discretion of the program administrators.
- (b) It is intended that emergency energy assistance be authorized in the form of a direct payment to the fuel vendor from the HEA Program. If a direct transfer is not possible, a one party check will be issued to the fuel vendor.
1. Direct payments in the form of a single party check may be made to clients to purchase wood or coal.
- (c) Emergency purchase of fuel:
1. The CBO is authorized to issue an emergency payment for the purchase of fuel oil or other fuel used for residential heating.
  2. Emergency purchase of fuel shall only be authorized for households which are directly responsible for payment of fuel costs associated with residential heating.
  3. The client shall be required to provide the CBO with a receipt for fuel purchased with emergency energy funds if the fuel vendor does not receive a direct payment.
- (d) Emergency energy assistance for specific services:
1. Emergency energy assistance is authorized through the CBO when a household is without heat or is in danger of being without heat. Payments for the following services shall only be authorized for a household if the household owns and resides in the residence requiring the service:
    - i. Furnace repairs up to \$1,000 are authorized when an HEA eligible household that pays a fuel supplier directly for their primary source of heat is in need of furnace repair to prevent homelessness or where assistance for furnace replacement is not

available through other programs or funding sources.

1. HEA funds are not intended to supplant existing services and are to be considered assistance to the homeowner to prevent homelessness only.
  2. CBOs shall obtain written estimates of necessary repairs prior to authorizing payment.
  3. Once payment is authorized, an itemized receipt for furnace repair services shall be included in the HEA case record.
2. Payment for the following service may be authorized for households which are directly responsible for payment of the cost of the primary heating fuel for the residence requiring the service, regardless of whether the household owns the residence.
- i. Furnace restart not to exceed an amount to be established by the program administrators.

(e) Emergency temporary rehousing:

1. Payment may be authorized by DCA for the actual cost of adequate emergency shelter arrangements for HEA eligible households which have been temporarily rehoused due to an energy related emergency.
2. This assistance may be necessary in situations in which there is no heat in an apartment building and all of the tenants must be evacuated and temporarily resettled.
3. The CBO will document the cause of the emergency and enter the required information into the Home Energy Assistance Program database to generate emergency housing payments.
4. The CBO is responsible for evaluation of the situation and determination of the appropriateness of reimbursement from program funds. Reimbursement shall be authorized for a specified temporary period consistent with Section 3.4 (a.8).

(f) Restoration or maintenance of utility service:

1. Emergency energy assistance may be granted by a CBO to restore or maintain utility service for an eligible household under the following conditions:
  - i. The service provided by the utility is essential to the maintenance of the

household's heating source;

- ii. The household must have received a termination of service notice or have actually been shut off;
  - iii. The utility company agrees to restore or maintain service but requests a fee for reconnection;
  - iv. The household is without the means to pay the reconnection fee;
  - v. The household is directly responsible to the utility for payment of the bill.
  - vi. The CBO must verify with the utility that the amount of the available emergency payment will be sufficient to restore or maintain service.
2. If the request for emergency assistance is made while the Board of Public Utilities Order regarding the winter termination program (moratorium) is in effect, the household must document that appeal to the Board has been unsuccessful.
  3. If the utility requires a minimum payment in the amount greater than the maximum emergency assistance benefit per request to restore or maintain service, prior to issuing the emergency payment, the CBO shall require the household to show proof that the household has funds to pay or has paid the excess amount prior to issuance of the emergency payment.
  4. If a household which heats by fuel oil must have utility service reconnected to start the fuel burner, emergency energy assistance may be granted for the utility reconnection necessary to restart the fuel burner and for an emergency fuel oil delivery. The total amount of the emergency payment in such instances may not exceed the maximum emergency assistance benefit per request. The maximum payment for utility reconnection may not exceed an amount to be established by NJDCA prior to the start of the HEA season. If a household which heats by fuel oil has used its HEA benefit check to purchase oil or already has oil but needs utility reconnection to start the fuel burner, emergency energy assistance may be granted for such utility reconnection but may not exceed an amount to be established by NJDCA prior to the start of the HEA season.

### **3.5. Maximum program benefit**

- (a) An eligible household may receive a maximum in program benefits to include automatic or special payments plus any emergency assistance payments exclusive of emergency

rehousing payments and emergency furnace repair payments. A household which receives more than the maximum program benefit is subject to recoupment procedures in accordance with Section 5.3 (b).

- (b) Cooling assistance payments in accordance with Section 3.3 is counted toward the maximum program benefit amount.

### **3.6. Payment schedule - DFD/DCA/ Determination of Benefits**

- (a) The HEA program provides for heating, medically necessary cooling, emergency heating, supplemental heating, emergency supplemental heating, and emergency supplemental assistance cooling. The amount of available funds under these various assistance programs shall be determined as follows:

1. Annually, the amount of funds available for LIHEAP is determined by New Jersey's LIHEAP allocation from the USDHHS, any USDHHS leveraging funds awarded, and any unspent funds from the previous year which are carried forward. From these monies, an amount not to exceed 15 percent of available funding is transferred to the DCA's LIHEAP Weatherization Program. In addition, an amount not to exceed 10 percent of available funding is allocated for the cost of program administration. Benefits are then determined after setting aside funds for heating emergencies and medically necessary cooling. These amounts are based on the number of eligible households assisted in prior years and the level of funding available in the current fiscal year. The highest benefit shall be issued to those households with the lowest incomes and the highest energy costs or needs in relation to income and household size.

- (b) As provided at Section 3.5, heating assistance shall not exceed the maximum as established by the program administrators. An additional benefit of up to \$200.00 may be issued to avoid disconnection of electric service when the client is responsible for the heating cost.

1. Each year the Department of Community Affairs will provide through a public notice provided through public advertisement and on the NJDCA website, the benefit level matrix identifying benefit levels by household income, household size, fuel type, and geographical region.

- (c) As provided in Section 3.4, emergency heating assistance for the initial purchase of fuel shall not exceed the maximum as established by the program administrators.

- (d) As provided in Section 3.3, medically necessary cooling assistance shall not exceed an amount to be established by NJDCA prior to the start of the HEA season.
- (e) In consideration of the needs of LIHEAP beneficiaries, funds unexpended during the regular heating season shall be made available for supplemental heating emergency situations. Eligible LIHEAP households who heat with electricity or natural gas, experience a utility shutoff between March 16 and May 31 or were issued a shutoff notice, and have made a good faith payment on their heating account during this period shall be eligible for supplemental heating emergency benefit. Such households shall receive a benefit based on availability of funding and the number of eligible households, as estimated from previous years.
- (f) Any Federal supplemental allocations received shall be expended as emergency supplemental heating funds or emergency supplemental cooling funds, or weatherization and in conformity with Federal law, regulation and contingencies, and may include the reopening of the application period.

#### **4. Application Process**

##### **4.1. Opportunity and Decision to Apply**

- (a) Any individual(s) who believes he or she or his or her household is eligible for HEA must be given the opportunity to apply without delay. Heating and cooling assistance applications shall be accepted from November 1 through April 31 of each year. The application end date may be extended by the Department. Applicants will be informed about eligibility requirements and their rights and obligations in applying for and receiving assistance. The decision to apply rests with the applicant. The applicant has the right to withdraw the application before eligibility or ineligibility has been determined. LIHEAP applications must be processed through the USFHEA database system, maintained by the Office of Information Technology (OIT) in accordance with (e) below.
  - 1. For purposes of this program, the applicant shall be the adult household member who is billed for payment of heating/cooling costs or responsible for payment of the rent.
    - i. In the event that the applicant, due to illness or injury is unable to complete the application, the CBO shall accept the application from an authorized representative who is sufficiently familiar with the household's circumstances.
- (b) SNAP households that have received or will receive automatic benefits but submit a separate application will have that application denied by the CBO.
- (c) Households desiring HEA assistance must complete a Home Energy Assistance Application or Recertification form. The application must be completed and submitted to the CBO of the county in which the household resides. The application or recertification

form shall be signed by the household member responsible for payment of heating or cooling costs or by his or her authorized representative.

1. All households may apply by mail.
  2. The CBO shall provide home visits to accept applications from those households which are not eligible to apply by mail but cannot apply in person at the CBO (e.g., the applicant is ill, bedridden, or for whom access to the CBO is difficult).
  3. The CBO shall enter the date of application into the Home Energy Assistance Program database. The application date is the day the application was received by the CBO. The period for determination of program eligibility or ineligibility and notification of the household of the determination is calculated from the date the application is received.
  4. Program eligibility or ineligibility must be determined and the household notified of the decision within 60 days for all households.
  5. The household must cooperate with the CBO in the eligibility determination process. If the household refuses to cooperate in this process, the application shall be denied.
- (d) At the time of application, the CBO shall advise the household of all program eligibility requirements and the method by which assistance will be provided. Additionally, the CBO shall assist the household in completing the application and explain what elements of eligibility must be verified, if assistance is requested by the applicant. The CBO must advise the household what verification is required and explain that the case will be denied if verification is not provided.
1. The following information must be verified, documented and retained in the case record by the CBO for the application to be successfully processed:
    - i. Name of the applicant and all household members;
    - ii. Social Security number of every member of the applicant household;
      1. Any applicant for HEA only who has not been assigned a Social Security number must be referred to the local Social Security Administration district office to apply for same, and must submit verification of such application to the CBO;
    - iii. Address;
    - iv. Heating fuel type and supplier. The client shall present a bill or contract from the fuel supplier (the CBO may, with the consent of the household, contact the supplier for verification);

- v. A cancelled check made out to the landlord, or lease if heat/utilities are included in the rent (the CBO may, with the consent of the household, contact the landlord for verification);
  - vi. If the household is directly responsible for heating/cooling costs but the bill is not in the household's name, a statement from the landlord attesting to that fact;
  - vii. Earned and unearned income shall be verified by wage stubs or any applicable documentation relating to any consecutive four-week period within the eight weeks before the date the client signs the application or reports a change in earnings;
  - viii. Other income including pensions, outside contributions, interest, dividends, UIB, disability, and support payments;
  - ix. Proof of tax dependency status for household consisting entirely of students (i.e., a copy of the most recent tax return of the student's parents); and
  - x. For emergency energy payments, the emergent situation. This shall be accomplished by collateral contact and client affidavit, if required.
    - 2. The following must be verified and documented if the information provided by the applicant is questionable or inconsistent:
      - i. Composition of the household;
      - ii. Gross monthly income and total monthly household expenditures;
      - iii. Home ownership; and
      - iv. Social Security numbers for household members which were not verified in accordance with (d)1i(2) above.
- (e) The CBO shall transmit application data to OIT via computer terminal and retain a copy in the case record.
- 1. The application shall be screened and certified by the CBO prior to data entry to ensure that it is complete and coded correctly.
  - 2. Each CBO will have access to reports in the database system listing of its cases which were rejected upon data entry. All cases on this report must be corrected and

retransmitted to OIT.

(f) In certain instances, the CBO may not be able to complete the processing of the application because the household has not completed the application or it has not provided or refuses to provide verification that the CBO cannot obtain. In such instances, the CBO will enter the incomplete application into the database system which will generate an automatic notification to be mailed to the applicant advising of the denial of benefits. The applicant will have 30 days from the date of the notice to provide any missing documentation.

1. The household that receives a notice of denial may contest this denial at a fair hearing.

(g) Applications must always be processed through the OIT computer system to a decision. However, the CBO will be responsible for screening each HEA application to determine the following:

1. The household's gross monthly income meets the monthly income eligibility standards in Section 2.2(a)

2. The household is responsible for payment of its heating/cooling costs in accordance with Section 2.2(1).

3. The household meets the definition of "resident" provided in Section 2.2(2)

4. The household refuses to cooperate in the determination of eligibility.

(h) If the CBO determines, based on the provisions of (g) above, that the household is ineligible, the application must be entered into the HEA database.

(i) Applications will be accepted or denied once they are fully processed into the USFHEA database system. The system will generate and mail a notice that will advise the applicant of the final determination and of the right to request a fair hearing.

## **5. Other Program Requirements**

### **5.1. Establishment of Home Energy Assistance Units**

(a) Community Based Organizations (CBOs) shall establish separate Home Energy Assistance units to handle applications and all related program activity. CBO's shall utilize existing staff or additional personnel as required to ensure that all applications are promptly taken, complete with all required information, coded according to Department of Community Affairs (DCA) instructions, transmitted to OIT within the time limits specified in 4.1(e), and that all required verification is documented in the case record.

(b) CBOs must also comply with the following requirements:

1. Accept and process home energy assistance applications at any other office designated by the CBO to accept HEA applications;
2. Accept and process applications from households which elect to apply by mail;
3. Provide home visits to accept applications from those households which are eligible to apply by mail but need assistance to complete the application and cannot apply in person at the CBO (e.g., ill, bedridden, those for whom access to the CBO is difficult due to remoteness);
4. Provide communication assistance to persons with limited English speaking ability, impaired hearing, vision or speech impairments, and to persons who are illiterate to ensure such persons are advised of the existence of the program, their right to apply and their fair hearing rights;
5. Review all documentation and enter information accurately into the HEA database to ensure that payments are not issued to ineligible households and that households have not exceeded the maximum benefit established in Federal regulations.

## **5.2. Notice requirements**

- (a) A right to a hearing notification will be printed on all denial notices and will include a statement regarding the right to appeal any decision regarding eligibility or amount of benefit and will be available in both English and Spanish.
- (b) The Department of Community Affairs will generate notices informing the household of any action taken on its application.
  1. This notice of eligibility or denial is sent to applicants from the Home Energy Assistance Program database.
  2. For households determined eligible, a computer-generated form will advise the household of the amount of assistance to which they are entitled.
  3. For households which are denied, a computer-generated form will advise the household of the reason for denial.

- (c) Households receiving automatic payments shall receive a notice. The notice will advise the household of the amount of assistance to which they are entitled.
  - b. Households receiving SNAP which do not receive automatic payments shall also receive a Notice of Home Energy Assistance Action explaining why the household was not selected for an automatic payment.

### **5.3. Recoupment of overpayments**

- (a) "Overpayments" shall include the following:
  - 1. Households which received more than \$2,000 in HEA benefits from October 1, 1999 forward exclusive of emergency rehousing payments and emergency furnace repair payments during any program year thereafter shall be considered to have been overpaid.
  - 2. Households which receive benefits which are duplicative, i.e., households receiving more than one full automatic and/or application energy entitlement during any program year, shall be considered to have been overpaid.
  - 3. Households which receive any amount of HEA benefits that the CWA or CBO determines to have been issued inappropriately by virtue of fraud, misrepresentation of fact or administrative error, shall be considered to have been overpaid.
- (b) All households determined to have been overpaid shall be required to repay the excess benefit. Upon discovery of the overpayment, the CWA or CBO shall take action in accordance with the procedures in this subsection.
  - 1. The amount of the overpayment shall be the difference between the total HEA benefit paid to the household and the maximum annual benefit as appropriate, or the amount determined by the CWA or CBO to have constituted the overpayment.
  - 2. Immediately upon discovery of an overpayment, the DCA fiscal staff will enter an overpayment recovery record in the USFHEA database system that will be collected from the future HEA benefit that the applicant household should receive.
  - 3. If the household makes repayment, the amount recovered shall be deducted from the full amount entered in the system's Overpayment Recovery screen.
  - 4. If the household refuses to repay, does not respond to the repayment request or fails

to make scheduled repayments it shall be advised that the amount will be recovered from any future HEA benefits to which the household may be entitled.

5. NJDCA shall institute action to recover the full amount of the overpayment by reducing the household's HEA entitlement in the succeeding program year.
6. Recoupment of overpayments from future HEA benefits is subject to adequate notice in accordance with Section 5.3(b)2.

#### **5.4. Lost or stolen checks**

- (a) Households whose energy check has been lost or stolen must report the loss to the CWA or the CBO.
  1. CBOs shall complete a Request for Check Replacement, in the USFHEA Check Returns/Inquiries screen enter the information in the USF/HEA database, print a copy of the form(s) for the case record and forward a copy to DCA for processing.
  2. Additionally, the CWA and the CBO shall comply with all other fiscal procedures regarding lost or stolen energy checks.

#### **5.5. Outreach requirements**

- (a) An outreach network and referral system must be established in each county to advise potentially eligible households of the availability of energy assistance.
- (b) Outreach activities must be implemented to ensure the identification and provision of services to the following:
  1. The elderly, ill, bedridden, disabled and young children;
  2. Those for whom access to the program is difficult due to remoteness, frequent change of address, limited English speaking ability, or lack of knowledge about service programs; and
  3. Low income families.
- (c) CBO outreach responsibilities shall include, at a minimum, the following:
  1. Distribution of copies of the Home Energy Assistance Fact Sheet to all appropriate cooperating groups, agencies, and organizations including those involved in the

SNAP Program informational activities, e.g., county offices on aging, community action agencies, municipal welfare departments, Social Security Administration district offices, public education, library and media facilities, police and fire departments, religious organizations, migrant organizations, and American Indian organizations and home energy suppliers;

2. Distribution of blank application forms and instructions to cooperating outreach groups, agencies, and organizations so that they may be made available to the elderly and the disabled;
  3. Distribution of sample applications and instructions for completion to all cooperating outreach groups, agencies, and organizations;
  4. Provision of sufficient information to staff of cooperating groups, agencies, and organizations to enable them to assist the potential applicant to assemble required documentation.
  5. Contact with each home energy supplier within the county to advise them of the existence of the HEA program and to encourage them to make information regarding HEA available to their customers.
- (d) CBOs may initiate other outreach activities as they deem appropriate.
- (e) CBOs are permitted to outstation staff at other agencies to take applications or to assist in reviewing applications taken by staff of those agencies.

#### **5.6. Referral to weatherization**

- (a) The Department of Community Affairs (DCA) supervises local community based organizations (CBOs) which administer weatherization programs.
- (b) At the time of application, CBOs will discuss with applicants the advantages and availability of weatherization programs.
  1. Applicants interested in weatherization will be referred for evaluation and service, if appropriate.
  2. The CBO will be requested to refer the household to all other local energy conservation programs.

**Program Monitoring**

- a) The LIHEAP program monitor conducts thorough on-site examinations and inspections of subrecipients' applicant files to ensure compliance with program policies and procedures. In addition to the program monitor inspections, DCA procures an independent accounting firm to review both fiscal and programmatic areas, including program income eligibility of all LIHEAP subrecipients in accordance with applicable regulatory requirements. Such monitoring reviews are conducted using a risk-based approach. If any eligibility issues are identified during the monitoring reviews, DCA will resolve such issues appropriately and expeditiously. Moreover, if systemic issues exist concerning an agency's fiscal or programmatic practices, DCA requires that the agency in question take corrective actions immediately.
- b) DCA's program monitor follows-up on any and all identified deficiencies, either fiscal or programmatic, by requesting that the subrecipient agency develop a corrective action plan within 30 days of receiving notice of any findings or deficiencies.

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