

## CHAPTER 89

## HOME ENERGY ASSISTANCE HANDBOOK

## Authority

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

## Source and Effective Date

R.2005 d.130, effective March 28, 2005.  
See: 37 N.J.R. 18(a), 37 N.J.R. 1518(b).

## Chapter Expiration Date

Chapter 89, Home Energy Assistance Handbook, expires on March 28, 2010.

## Chapter Historical Note

Chapter 89, Home Energy Assistance Handbook, was adopted as Emergency New Rules by R.1980 d.497, effective November 10, 1980. See: 12 N.J.R. 724(b).

Pursuant to Executive Order No. 66(1978), Chapter 89, Home Energy Assistance Handbook was readopted as R.1985 d.492, effective September 11, 1985. See: 17 N.J.R. 1737(a), 17 N.J.R. 2441(a).

Pursuant to Executive Order No. 66(1978), Chapter 89, Home Emergency Assistance Handbook, was readopted as R.1990 d.315, effective May 24, 1990. See: 22 N.J.R. 599(a), 22 N.J.R. 1939(a).

Pursuant to Executive Order No. 66(1978), Chapter 89, Home Energy Assistance Handbook, was readopted as R.1995 d.172, effective February 27, 1995. See: 26 N.J.R. 4726(a), 27 N.J.R. 1317(a).

Pursuant to Executive Order No. 66(1978), Chapter 89, Home Energy Assistance Handbook, was readopted as R.1999 d.446, effective November 29, 1999. See: 31 N.J.R. 2844(a), 31 N.J.R. 4267(a).

Chapter 89, Home Emergency Assistance Handbook, was readopted as R.2005 d.130, effective March 28, 2005. See: Source and Effective Date. See, also, section annotations.

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## SUBCHAPTER 1. GENERAL PROVISIONS

## 10:89-1.1 Fair hearings—DFD/DCA

(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 (or 20 days after application for elderly or disabled individuals), 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 DFD (Division of Family Development) or 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 DFD or 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.

Emergency amendment and concurrent proposal amended, R.1984 d.538, effective and operative November 1, 1984 (expires December 31, 1984).

See: 16 N.J.R. 3217(a).

(b) through (d) deleted and new (b) through (c) added. Emergency amendment readopted R.1985 d.5, effective January 2, 1985.

See: 16 N.J.R. 3217(a), 17 N.J.R. 310(a).

Amended by R.1995 d.172, effective March 20, 1995.

See: 26 N.J.R. 4726(a), 27 N.J.R. 1317(a).

Emergency amendment R.1997 d.149, effective February 25, 1997 (to expire April 26, 1997).

See: 29 N.J.R. 940(a).

In (b), inserted references to Division of Housing and Community Resources.

Adopted concurrent proposal, R.1997 d.207, effective April 25, 1997.

See: 29 N.J.R. 940(a), 29 N.J.R. 2473(a).

Amended by R.2005 d.130, effective May 2, 2005.

See: 37 N.J.R. 18(a), 37 N.J.R. 1518(b).

Rewrote the section.

### 10:89-1.2 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.

### 10:89-1.3 Prudent person concept—DFD/DCA

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 County Welfare Agency (CWA) worker or community action agency (CAA) or other non-profit agency 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 or Department of Human Services (DHS).

Emergency amendment R.1997 d.149, effective February 25, 1997 (to expire April 26, 1997).

See: 29 N.J.R. 940(a).

Inserted reference to CAA or other non-profit agency worker and substituted "DCA or DHS" for "the Home Energy Assistance Unit for direction".

Adopted concurrent proposal, R.1997 d.207, effective April 25, 1997.

See: 29 N.J.R. 940(a), 29 N.J.R. 2473(a).

Amended by R.2005 d.130, effective May 2, 2005.

See: 37 N.J.R. 18(a), 37 N.J.R. 1518(b).

In the second sentence, substituted "County Welfare Agency (CWA) worker or community action agency (CAA)" for "the CWA worker or CAA" following "In cases of this nature," inserted "Department of Human Services" preceding "(DHS)" in the last sentence.

### 10:89-1.4 Confidentiality

The CWA/CAA 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.

New Rule, R.2005 d.130, effective May 2, 2005.

See: 37 N.J.R. 18(a), 37 N.J.R. 1518(b).

## SUBCHAPTER 2. PROGRAM ELIGIBILITY

### 10:89-2.1 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 N.J.A.C. 10:89-4 (Application Process) or be entitled to automatic payments in accordance with N.J.A.C. 10:89-3.1. All Home Energy Assistance benefits must be used to offset current costs of home energy.

Amended by R.1988 d.482, effective October 17, 1988 (operative November 1, 1988).

See: 20 N.J.R. 1643(a), 20 N.J.R. 2577(a).

Added text "All Home Energy ..."

#### Case Notes

County welfare board's discretion is severely restricted by state and federal regulations. *Battaglia v. Union Cty. Welfare Bd.*, 88 N.J. 48, 438 A.2d 530 (1981) dissenting opinion, certiorari denied 102 S.Ct. 2045, 456 U.S. 965, 72 L.Ed.2d 490 (1982).

### 10:89-2.2 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 (see N.J.A.C. 10:89-2.3(f)4 for limitations).

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. Strikers and households that include striking members are ineligible for Home Energy Assistance benefits, in accordance with N.J.A.C. 10:90-2.8(c).

4. 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 (see N.J.A.C. 10:90-2.10 and 10.3).

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.

5. 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 \$268.00, the amount in excess of \$268.00 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 N.J.A.C. 10:89-2.3(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 are 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;

i. Households receiving a rent subsidy which does not include all of their heating costs and have a heating bill in their name are entitled to assistance at a renter's benefit level;

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 N.J.A.C. 10:89-2.3(g).

Emergency Amendment and concurrent proposal amended, R.1984 d.538, effective and operative November 1, 1984 (expired December 31, 1984).

See: 16 N.J.R. 3217(a).

(a)1 changed to (a)2; new (a)1 added.

Emergency Amendment readopted R.1985 d.5, effective January 2, 1985.

See: 16 N.J.R. 3217(a), 17 N.J.R. 310(a).

Amended by R.1985 d.492, effective October 7, 1985.

See: 17 N.J.R. 1737(a), 17 N.J.R. 2441(a).

language change.

Emergency Amendment, R.1985 d.593, effective October 28, 1985 (operative November 1, 1985, expired December 27, 1985).

See: 17 N.J.R. 2791(a).

(a)3 new; recodify old (a)3 to 4.

Readopted Amendment R.1985 d.708, effective December 24, 1985.

See: 17 N.J.R. 2791(a), 18 N.J.R. 194(a).

Amended by R.1986 d.450, effective November 17, 1986.

See: 18 N.J.R. 1676(a), 18 N.J.R. 2328(a).

(a)1i added.

Emergency Amendment, R.1987 d.496, effective October 28, 1987 (operative November 1, 1987, expired December 27, 1987).

See: 19 N.J.R. 2208(a).

(a)4 rate raised from \$235.00 to \$238.00.

Adopted Concurrent Proposal as R.1988 d.46, effective December 24, 1987.

See: 19 N.J.R. 2208(a), 20 N.J.R. 291(b).

Amended by R.1990 d.315, effective June 18, 1990.

See: 22 N.J.R. 599(a), 22 N.J.R. 1939(a).

In (a)4: Increased monthly excess income amount for illegal aliens to \$255.00 from \$238.00. Added new (a)5.

Emergency Amendment, R.1990 d.590, effective October 30, 1990; operative November 1, 1990 (expired December 30, 1990).

See: 22 N.J.R. 3590(a).

Monthly amount raised from \$255 to \$268.

Amended by R.1991 d.39, effective January 22, 1991.

See: 22 N.J.R. 3590(a), 23 N.J.R. 218(a).

In (a)4, \$268 was \$255.

Amended by R.2005 d.130, effective May 2, 2005.

See: 37 N.J.R. 18(a), 37 N.J.R. 1518(b).

Rewrote the section.

### 10:89-2.3 Income eligibility—DCA/DHS

(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 Human Services 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 175 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 responsi-

bility 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 nonhousehold 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. (See N.J.A.C. 10:90-3.9.)

(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 N.J.A.C. 10:89-4.1(d), shall be added to determine the household's total gross monthly income. Cents shall be rounded to the nearest dollar. 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. In any household declaring zero income, the head of household shall be required to file a declaration of zero income. This information is to be maintained in the case record.

2. 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.

3. For the purpose of this program, the household shall consist of all persons residing within a single residential unit.

4. 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.

5. Foster children placed with a family by DYFS are to be included in the household size and the allowance paid by DYFS is to be included in the household's income.

6. 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)4 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.

7. If a household member receives Social Security benefits and/or SSI the CAA or other non-profit agency 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 CAA or other non-profit agency 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 CAA or other non-profit agency 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.

8. 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.

Amended by R.1982 d.497, effective December 30, 1982.

See: 14 N.J.R. 131(a), 15 N.J.R. 92(c).

Originally filed as an emergency adoption (R.1983, d.412) on November 1, 1982. Readopted as R.1982 d.497. Increase in allowable gross income limits.

Amended by R.1983 d.465, effective October 17, 1983, operative November 1, 1983.

See: 15 N.J.R. 1388(a), 15 N.J.R. 1768(c).

Gross income limits increased.

Emergency Amendment and Concurrent Proposal amended, R.1984 d.538, effective and operative November 1, 1984 (expired December 31, 1984).

See: 16 N.J.R. 3217(a).

Substantially amended.

Emergency Amendment readopted R.1985 d.5, effective January 2, 1985.

See: 16 N.J.R. 3217(a), 17 N.J.R. 310(a).

Correction: (f)5ii deleted "\$14.60" and added "amount."

See: 17 N.J.R. 1444(b).

Emergency Amendment, R.1985 d.593, effective October 28, 1985 (operative November 1, 1985, expired December 27, 1985).

See: 17 N.J.R. 2791(a).

Monthly Gross Income Limits raised.

Readopted amendment R.1985 d.708, effective December 24, 1985.

See: 17 N.J.R. 2791(a), 18 N.J.R. 194(a).

(b)4 added text "or center for the treatment of drug and/or alcohol abuse".

Amended by R.1986 d.450, effective November 17, 1986.

See: 18 N.J.R. 1676(a), 18 N.J.R. 2328(a).

Monthly allowable gross income limit raised.

Emergency Amendment, R.1987 d.496, effective October 28, 1987 (operative November 1, 1987, expired December 27, 1987).

See: 19 N.J.R. 2208(a).

Added (f)5iii and raised Monthly Allowable Gross Income Limit.

Adopted Concurrent Proposal, R.1988 d.46, effective December 24, 1987.

See: 19 N.J.R. 2208(a), 20 N.J.R. 291(b).

Amended by R.1988 d.482, effective October 17, 1988 (operative November 1, 1988).

See: 20 N.J.R. 2677(a).

Added "grandparents"; raised Gross Income Eligibility Limits for Home Energy Assistance".

Amended by R.1990 d.315, effective June 18, 1990.

See: 22 N.J.R. 599(a), 22 N.J.R. 1939(a).

Increased Gross Income Eligibility Limits for Home Energy Assistance.

Emergency Amendment, R.1990 d.590, effective October 30, 1990; operative November 1, 1990 (expired December 30, 1990).

See: 22 N.J.R. 3590(a).

Increased Gross Income Eligibility Limits for Home Energy Assistance.

Amended by R.1991 d.39, effective January 22, 1991.

See: 22 N.J.R. 3590(a), 23 N.J.R. 218(a).

In (g), increased Gross Income Limits.

Emergency Amendment, R.1992, d.38, effective December 26, 1991 (expires February 24, 1992).

See: 24 N.J.R. 300(b).

In (g), increased Gross Income limits.

Adopted concurrent proposal, R.1992 d.125, effective February 21, 1992.

See: 24 N.J.R. 300(b), 24 N.J.R. 952(b).

Provisions of emergency amendment R.1992 d.38 readopted without change.

Emergency Amendment, R.1992 d.517, effective December 8, 1992, operative January 1, 1993 (expires February 6, 1993).

See: 24 N.J.R. 4593(a).

Income limits in (g) adjusted to conform to 150 percent of Federal Poverty Level.

Adopted Concurrent Proposal, R.1993 d.97, effective January 28, 1993.

See: 24 N.J.R. 4593(a), 25 N.J.R. 997(a).

Provisions of emergency amendment R.1993 d.517 adopted without change.

Emergency Amendment, R.1994 d.20, effective December 9, 1993 (to expire February 7, 1994).

See: 26 N.J.R. 256(a).

Adopted Concurrent Proposal, R.1994 d.109, effective February 7, 1994.

See: 26 N.J.R. 256(a), 26 N.J.R. 1227(a).

Emergency Amendment R.1995 d.145, effective February 16, 1995 (to expire April 17, 1995).

See: 27 N.J.R. 942(a).

Adopted Concurrent Proposal, R.1995 d.246, effective April 17, 1995.

See: 27 N.J.R. 942(a), 27 N.J.R. 2003(a).

Provisions of emergency amendment, R.1995 d.145, adopted without change.

Emergency amendment R.1996 d.47, effective December 21, 1995 (expires February 19, 1996).

See: 28 N.J.R. 293(a).

Adopted Concurrent Proposal R.1996 d.134, effective February 16, 1996.

See: 28 N.J.R. 293(a), 28 N.J.R. 1537(a).

Emergency amendment R.1997 d.149, effective February 25, 1997 (to expire April 26, 1997).

See: 29 N.J.R. 940(a).

In (f)5, (f)5i, and (f)5ii, substituted "CAA or other non-profit agency" for "CWA"; and in (g), increased monthly allowable gross income limits.

Adopted concurrent proposal, R.1997 d.207, effective April 25, 1997.

See: 29 N.J.R. 940(a), 29 N.J.R. 2473(a).

Emergency amendment R.1998 d.82, effective January 9, 1998 (to expire March 10, 1998).

See: 30 N.J.R. 568(a).

In (g), increased Monthly Allowable Gross Income Limits.

Adopted concurrent proposal, R.1998 d.168, effective March 10, 1998.

See: 30 N.J.R. 568(a), 30 N.J.R. 1285(a).

Emergency amendment R.1999 d.139, effective April 1, 1999 (to expire May 31, 1999).

See: 31 N.J.R. 1105(a).

In (g), increased Monthly Allowable Gross Income Limits.

Adopted concurrent proposal, R.1999 d.197, effective May 28, 1999.

See: 31 N.J.R. 1105(a), 31 N.J.R. 1614(a).

Amended by R.2000 d.16, effective January 3, 2000.

See: 31 N.J.R. 3187(a), 32 N.J.R. 60(a).

Rewrote (g).

Public Notice: Home Energy Assistance income eligibility and benefits.

See: 32 N.J.R. 720(b).

Emergency amendment, R.2000 d.160, effective March 23, 2000 (to expire May 22, 2000).

See: 32 N.J.R. 1426(a).

Added (h).

Emergency amendment, R.2000 d.160, expired May 22, 2000.

Deleted (h).

Public Notice: Home Energy Assistance income eligibility and benefits.  
See: 33 N.J.R. 1479(c).

Public Notice: Home Energy Assistance income eligibility and benefits.  
See: 34 N.J.R. 605(b).

Public Notice: Home Energy Assistance income eligibility and benefits.  
See: 35 N.J.R. 894(a).

Public Notice: Home Energy Assistance Program.

See: 36 N.J.R. 1132(a).

Amended by R.2005 d.130, effective May 2, 2005.

See: 37 N.J.R. 18(a), 37 N.J.R. 1518(b).

Rewrote the section.

Public Notice: Home Energy Assistance Program.

See: 38 N.J.R. 847(b), 4755(b).

Public Notice: Home Energy Assistance Program.

See: 39 N.J.R. 5374(a).

### SUBCHAPTER 3. PROGRAM BENEFITS

#### 10:89-3.1 Automatic payments to certain households— DFD

##### (a) Recipient households:

1. Certain households eligible for Food Stamps (FS) 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 FS and will be updated whenever the household reports a change. The automatic HEA payment will be extracted from the DFD's Family Assistance Management Information System (FAMIS). The households which may be extracted include certain households eligible for and receiving FS. 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 Food Stamp extract. Match criteria shall be collected during the Food Stamp eligibility determination or redetermination process. Households which heat by oil, coal, wood, propane, and kerosene or do not have a valid ac-

count 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 copayee "Your Heating Supplier."

Amended by R.1982 d.497, effective December 30, 1982.

See: 14 N.J.R. 1311(a), 15 N.J.R. 92(c).

Originally filed as an emergency adoption (R.1982 d.412) on November 1, 1982. Readopted as R.1982 d.497. Added (NPA) Food Stamp households for automatic payment, deleted SSI households as automatic recipients.

Emergency amendment and concurrent proposal amended, R.1984 d.538, effective and operative November 1, 1984 (expires December 31, 1984).

See: 16 N.J.R. 3217(a).

Emergency amendment readopted R.1985 d.5, effective January 2, 1985.

See: 16 N.J.R. 3217(a), 17 N.J.R. 310(a).

Amended by R.1990 d.315, effective June 18, 1990.

See: 22 N.J.R. 599(a), 22 N.J.R. 1939(a).

In (a): changed to "Recipient" households.

In (a)iii: changed month to "March" from February.

Emergency Amendment R.1992 d.517, effective December 8, 1992, operative January 1, 1993 (expires February 6, 1993).

See: 24 N.J.R. 4593(a).

Generic two-party check to be issued to users of oil heat.

Adopted Concurrent Proposal, R.1993 d.97, effective January 28, 1993.

See: 24 N.J.R. 4593(a), 25 N.J.R. 997(a).

Provisions of emergency amendment, R.1992 d.517, adopted without change.

Emergency Amendment, R.1994 d.20, effective December 9, 1993 (to expire February 7, 1994).

See: 26 N.J.R. 256(a).

Adopted Concurrent Proposal, R.1994 d.109, effective February 7, 1994.

See: 26 N.J.R. 256(a), 26 N.J.R. 1227(a).

Emergency Amendment, R.1995 d.145, effective February 16, 1995 (to expire April 17, 1995).

See: 27 N.J.R. 942(a).

Adopted Concurrent Proposal, R.1995 d.246, effective April 17, 1995.

See: 27 N.J.R. 942(a), 27 N.J.R. 2003(a).

Provisions of emergency amendment, R.1995 d.145, adopted without change.

Emergency amendment R.1997 d.149, effective February 25, 1997 (to expire April 26, 1997).

See: 29 N.J.R. 940(a).

In (a)1, deleted "AFDC or" following "Certain households eligible for and receiving".

Adopted concurrent proposal, R.1997 d.207, effective April 25, 1997.

See: 29 N.J.R. 940(a), 29 N.J.R. 2473(a).

Emergency amendment R.1999 d.139, effective April 1, 1999 (to expire May 31, 1999).

See: 31 N.J.R. 1105(a).

Rewrote (a)2.

Adopted concurrent proposal, R.1999 d.197, effective May 28, 1999.

See: 31 N.J.R. 1105(a), 31 N.J.R. 1614(a).

Amended by R.2000 d.16, effective January 3, 2000.

See: 31 N.J.R. 3187(a), 32 N.J.R. 60(a).

Rewrote (a)2.

Amended by R.2005 d.130, effective May 2, 2005.

See: 37 N.J.R. 18(a), 37 N.J.R. 1518(b).

Rewrote the section.

### 10:89-3.2 Applications—DCA/CAA

(a) Upon application at the CAA or other non-profit agency, or outreach site, eligible households which have not received or will not receive automatic benefits in accordance with N.J.A.C. 10:89-3.1, 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 N.J.A.C. 10:89-2.3).

(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 N.J.A.C. 10:89-3.6.

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 the name of the fuel supplier.

5. A household directly responsible for payment of heating costs to any non-participating fuel supplier will receive the energy benefit payable to the head of household and "Your Heating Supplier."

6. 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 CAA or other non-profit agency 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 CAA or other non-profit agency 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.

Amended by R.1982 d.497, effective December 30, 1982.

See: 14 N.J.R. 1311(a), 15 N.J.R. 92(c).

Originally filed as an emergency adoption (R.1982 d.412) on November 1, 1982. Readopted as R.1982 d.497. Supplier and participating fuel supplier added to text.

Amended by R.1982 d.465, effective October 17, 1983, operative November 1, 1983.

See: 15 N.J.R. 1338(a), 15 N.J.R. 1768(c).

Reference to Schedule C changed to Schedule B.

Emergency amendment and concurrent proposal amended, R.1984 d.538, effective and operative November 1, 1984 (expires December 31, 1984).

See: 16 N.J.R. 3217(a).

Substantially amended.

Emergency amendment readopted R.1985 d.5, effective January 2, 1985.

See: 16 N.J.R. 3217(a), 17 N.J.R. 310(a).

Emergency Amendment, R.1985 d.539, effective October 28, 1985 (operative November 1, 1985, expires December 27, 1985).

See: 17 N.J.R. 2791(a).

Added text in (d): "or center for . . . or alcohol abuse."

Readopted amendment R.1985 d.708, effective December 24, 1985.

See: 17 N.J.R. 2791(a), 18 N.J.R. 194(a).

Emergency Amendment, R.1987 d.496, effective October 28, 1987 (operative November 1, 1987, expires December 27, 1987).

See: 19 N.J.R. 2208(a).

Added (f)6.

Adopted Concurrent Proposal as R.1988 d.46, effective December 24, 1987.

See: 19 N.J.R. 2208(a), 20 N.J.R. 291(b).

Amended by R.1990 d.315, effective June 18, 1990.

See: 22 N.J.R. 599(a), 22 N.J.R. 1939(a).

In (c): added "... or receiving a rent subsidy ..." to defining households regarding special assistance.

Emergency Amendment, R.1994 d.20, effective December 9, 1993 (to expire February 7, 1994).

See: 26 N.J.R. 256(a).

Adopted Concurrent Proposal, R.1994 d.109, effective February 7, 1994.

See: 26 N.J.R. 256(a), 26 N.J.R. 1227(a).

Emergency amendment R.1997 d.149, effective February 25, 1997 (to expire April 26, 1997).

See: 29 N.J.R. 940(a).

In (a), (f)6, and (f)6i, substituted "CAA or other non-profit agency" for "CWA".

Adopted concurrent proposal, R.1997 d.207, effective April 25, 1997.

See: 29 N.J.R. 940(a), 29 N.J.R. 2473(a).

Emergency amendment R.1998 d.82, effective January 9, 1998 (to expire March 10, 1998).

See: 30 N.J.R. 568(a).

In (f), rewrote 4.

Adopted concurrent proposal, R.1998 d.168, effective March 10, 1998.

See: 30 N.J.R. 568(a), 30 N.J.R. 1285(a).

Amended by R.2005 d.130, effective May 2, 2005.

See: 37 N.J.R. 18(a), 37 N.J.R. 1518(b).

Rewrote the section.

### 10:89-3.3 Cooling assistance—DCA/CAA

(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 benefit in the amount of \$100.00 subject to the following provisions. This benefit is available in addition to any other benefit made under this program and will be paid directly to the household.

1. The household must present evidence of health endangerment signed by a licensed medical practitioner.

2. In order to receive a cooling assistance benefit the household must be directly responsible for payment to the fuel supplier providing the fuel used for residential cooling; be otherwise directly responsible for the payment of fuel charges (e.g., the landlord bills the households according to usage); or make payment for cooling costs which are included in a single monthly rental charge.

3. The following households are not eligible for cooling assistance payments:

i. Households residing in publicly operated housing or receiving a rent subsidy which includes all cooling costs. Energy costs included in rent which is subsidized do not apply as out-of-pocket for cooling costs;

ii. Households for whom nonhousehold members pay for the cooling fuel;

iii. Residents of any licensed medical facility (hospital, skilled nursing facility or intermediate care facility) or publicly operated community residence and residents of centers for treatment of drug and/or alcohol abuse;

iv. Households consisting entirely of students who are tax dependents of another household.

Emergency amendment and concurrent proposal amended, R.1984 d.538, effective and operative November 1, 1984 (expires December 31, 1984).

See: 16 N.J.R. 3217(a).

(a)3v deleted.

Emergency amendment readopted R.1985 d.5, effective January 2, 1985.

See: 16 N.J.R. 3217(a), 17 N.J.R. 310(a).

Emergency Amendment, R.1985 d.539, effective October 28, 1985 (operative November 1, 1985, expires December 27, 1985).

See: 17 N.J.R. 2791(a).

One-time benefit raised from \$100.00 to \$125.00.

Readopted amendment R.1985 d.708, effective December 24, 1985.

See: 17 N.J.R. 2791(a), 18 N.J.R. 194(a).

Emergency Amendment, R.1987 d.496, effective October 28, 1987 (operative November 1, 1987, expires December 27, 1987).

See: 19 N.J.R. 2208(a).

(a)3i deleted "all".

Adopted Concurrent Proposal as R.1988 d.46, effective December 24, 1987.

See: 19 N.J.R. 2208(a), 20 N.J.R. 291(b).

Emergency Amendment, R.1992 d.38, effective December 26, 1991 (expires February 24, 1992).

See: 24 N.J.R. 300(b).

In (a) cooling assistance benefit changed from \$125.00 to \$100.00.

Adopted Concurrent Proposal, R.1992 d.125, effective February 21, 1992.

See: 24 N.J.R. 300(b), 24 N.J.R. 952(b).

Provisions of emergency amendment R.1992 d.38 readopted without change.

Emergency Amendment, R.1994 d.20, effective December 9, 1993 (to expire February 7, 1994).

See: 26 N.J.R. 256(a).

Adopted Concurrent Proposal, R.1994 d.109, effective February 7, 1994.

See: 26 N.J.R. 256(a), 26 N.J.R. 1227(a).

Emergency amendment R.1997 d.149, effective February 25, 1997 (to expire April 26, 1997).

See: 29 N.J.R. 940(a).

In (a)1, deleted provision directing questionable evidence to the Division of Family Development, Bureau of Medical Affairs. Adopted concurrent proposal, R.1997 d.207, effective April 25, 1997. See: 29 N.J.R. 940(a), 29 N.J.R. 2473(a). Emergency amendment R.1999 d.303, effective August 10, 1999 (to expire October 9, 1999). See: 31 N.J.R. 2648(a). Added (a)4. R.1999 d.303 expired October 9, 1999. Deleted (a)4.

#### 10:89-3.4 Emergency energy assistance—CAA

(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 household is without heat or is in danger of being without heat and has insufficient income available to purchase fuel or when a household which pays for heating costs which are included in a monthly rental charge is faced with eviction due to nonpayment of rent.

2. The emergency must be verified by client affidavit and collateral contact where this is possible and deemed necessary by the CAA or other non-profit agency.

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 \$400.00 for the initial purchase of fuel oil, electricity, natural gas, bottled gas, kerosene, wood or coal. The fee for restoration of utility service shall be counted toward the \$400.00 maximum amount for the initial purchase of electricity or natural gas. An additional emergency benefit of up to \$200.00 may be issued dependent on need.

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 CAA or other non-profit agency shall evaluate the request for emergency assistance with the understanding that any benefits previously provided to the client under this section or N.J.A.C. 10:89-3.1, Automatic payments to certain households—DFD, and N.J.A.C. 10:89-3.2, Applications—DCA/CAA, were intended to defray the cost of home heating fuel for the current heating season or to defray heating costs which are included in a monthly rental charge.

5. The CAA or other non-profit agency 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 CAA or other non-profit agency 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 during the months of December, January, February, March and April. Emergency assistance will be available for all fuel sources except electric and gas until March 15. Utility and gas emergencies will be available until April 30.

(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 two-party check will be issued to the client and the fuel vendor. The CAA or other non-profit agency will subsequently be reimbursed by DCA for such payments.

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 CAA or other non-profit agency 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 CAA or other non-profit agency with a receipt for fuel purchased with emergency energy funds.

(d) Emergency energy assistance for specific services:

1. Emergency energy assistance is authorized through the CAA or other non-profit agency 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 the New Jersey Department of Community Affairs (DCA) Weatherization and Furnace Retrofit Programs.

(1) HEA funds are not intended to supplant or supplement existing services available through DCA and are to be considered assistance to the homeowner to prevent homelessness only.

(2) CAAs or other non-profit agencies 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.

ii. Correction for infiltration of cold air (not to exceed \$100.00).

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 \$100.00.

(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 CAA or other non-profit agency will be reimbursed retroactively for emergency rehousing assistance provided to eligible households.

4. The CAA or other non-profit agency 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 N.J.A.C. 10:90-6.

5. If in an energy related emergency the CAA or other non-profit agency finds it necessary to reestablish an HEA eligible household in a new permanent living arrangement, the CAA or other non-profit agency may request reimbursement from Home Energy Assistance funds for payments made for security and/or utility deposits.

(f) Emergency assistance benefits to prevent eviction:

1. Payment may be authorized to eligible households facing eviction due to non-payment of rent or mortgage arrears whose heating costs are included in a single monthly rental charge or mortgage payment, or who pay only for a secondary source of heat, or who pay a separate charge to their landlord for heat. Authorization for such assistance must be approved by the Department of Community Affairs. Payment may be approved only when the household has been denied rehousing through WFNJ/emergency assistance (EA) through the CWA or the municipal welfare agency.

2. Emergency assistance to prevent eviction may not exceed the difference between the amount of the HEA entitlement for the program year and \$1,400, and shall be the lowest amount necessary to prevent eviction from the residence.

3. The applicant household must have received official documentation of pending eviction due to non-payment of rent, such as a tenancy complaint filed by the landlord or an order for eviction from the courts. The assistance available must be sufficient to prevent eviction. Households which have already been evicted are not eligible for this assistance.

(g) Restoration or maintenance of utility service:

1. Emergency energy assistance may be granted by a CAA or other non-profit agency 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 total amount of the emergency payment may not exceed \$400.00 which includes the emergency purchase of fuel and the reconnection fee; and

vii. The CAA or other non-profit agency 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 \$400.00 to restore or maintain service, prior to issuing the emergency payment, the CAA or other non-profit agency 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 \$400.00. The maximum payment for utility reconnection may not exceed \$100.00. 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 \$100.00.

Amended by R.1982 d.497, effective December 30, 1982.

See: 14 N.J.R. 1311(a), 15 N.J.R. 92(c).

Originally filed as an emergency adoption (R.1982 d.412) on November 1, 1982. Readopted as R.1982 d.497. Requirement to account for fuel funds already received and to provide receipt for fuel purchased with emergency funds.

Amended by R.1983 d.465, effective October 17, 1983, operative November 1, 1983.

See: 15 N.J.R. 1338(a), 15 N.J.R. 1768(c).

Deletion of requirement of CWA to obtain prior approval from DPW for second emergency payment.

Emergency amendment and concurrent proposal amended, R.1984 d.538, effective and operative November 1, 1984 (expires December 31, 1984).

See: 16 N.J.R. 3217(a).

(a)3: Added "150.00 for the . . . or natural gas."

Emergency amendment readopted R.1985 d.5, effective January 2, 1985.

See: 16 N.J.R. 3217(a), 17 N.J.R. 310(a).

Amended by R.1985 d.492, effective October 7, 1985.

See: 17 N.J.R. 1737(a), 17 N.J.R. 2441(a).

Deleted "up to 150 gallons of" and "its equivalent in."

Emergency Amendment, R.1985 d.539, effective October 28, 1985 (operative November 1, 1985, expires December 27, 1985).

See: 17 N.J.R. 2791(a).

Substantially amended.

Readopted amendment R.1985 d.708, effective December 24, 1985.

See: 17 N.J.R. 2791(a), 18 N.J.R. 194(a).

(e)4 amended.

Amended by R.1986 d.450, effective November 17, 1986.

See: 18 N.J.R. 1676(a), 18 N.J.R. 2328(a).

(a): Deleted "income" and substituted "HEA".

(a)1: Added text "and the household has insufficient funds on hand to purchase fuel."

(e)4: Substituted "two calendar months" for "60 days".

Emergency Amendment, R.1987 d.496, effective October 28, 1987 (operative November 1, 1987, expires December 27, 1987).

See: 19 N.J.R. 2208(a).

Substantially amended.

Adopted Concurrent Proposal as R.1988 d.46, effective December 24, 1987.

See: 19 N.J.R. 2208(a), 20 N.J.R. 291(b).

Amended by R.1988 d.482, effective October 17, 1988 (operative November 1, 1988).

See: 20 N.J.R. 2577(a).

Added (a)5-6 and renumbered existing 5.-6. to 7.-8. Added new (d)1i and new (f). Renumbered (f) to (g).

Amended by R.1990 d.315, effective June 18, 1990.

See: 22 N.J.R. 599(a), 22 N.J.R. 1939(a).

Stylistic revisions.

Administrative Correction to (f)2.

See: 24 N.J.R. 1502(a).

Emergency Amendment R.1992 d.517, effective December 8, 1992, operative January 1, 1993 (expires February 6, 1993).

See: 24 N.J.R. 4593(a).

Utility and gas emergency assistance extended to April 30.

Adopted concurrent proposal, R.1993 d.97, effective January 28, 1993.

See: 24 N.J.R. 4593(a), 25 N.J.R. 997(a).

Provisions of emergency amendment, R.1992 d.517, adopted without change.

Emergency amendment R.1996 d.322, effective June 19, 1996 (to expire August 18, 1996).

See: 28 N.J.R. 3673(a).

Added (a)9.

Emergency amendment R.1996 d.322, expired August 18, 1996.

Emergency amendment R.1997 d.149, effective February 25, 1997 (to expire April 26, 1997).

See: 29 N.J.R. 940(a).

Substituted "CAA or other non-profit agency" for "CWA" throughout; in (a)4, inserted references to DFD and to DCA/CAA; in (b), substituted "DCA" for "DFD"; and in (c)1, added last sentence.

Adopted concurrent proposal, R.1997 d.207, effective April 25, 1997.

See: 29 N.J.R. 940(a), 29 N.J.R. 2473(a).

Emergency amendment R.1997 d.333, effective July 15, 1997 (expired September 13, 1997).

See: 29 N.J.R. 3504(a).

Added (a)9.

Emergency amendment R.1998 d.469, effective August 14, 1998 (expired October 13, 1998).

See: 30 N.J.R. 3333(a).

Added (a)9.

Emergency amendment R.1999 d.303, effective August 10, 1999 (to expire October 9, 1999).

See: 31 N.J.R. 2648(a).

In (a), added 9.

R.1999 d.303 expired October 9, 1999. Deleted (a)9.

Emergency amendment, R.2000 d.160, effective March 23, 2000 (to expire May 22, 2000).

See: 32 N.J.R. 1426(a).

Added (h).

Emergency amendment, R.2000 d.160, expired May 22, 2000.

Deleted (h).

Amended by R.2005 d.130, effective May 2, 2005.

See: 37 N.J.R. 18(a), 37 N.J.R. 1518(b).

Rewrote the section.

### 10:89-3.5 Maximum program benefit

(a) An eligible household may receive a maximum of \$1,400 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 N.J.A.C. 10:89-5.3.

(b) Cooling assistance payments in accordance with N.J.A.C. 10:89-3.3 and emergency temporary rehousing payments in accordance with N.J.A.C. 10:89-3.4(e) are not counted toward the maximum program benefit.

As amended, R.1982 d.497, effective December 30, 1982.

See: 14 N.J.R. 1311(a), 15 N.J.R. 92(c).

Originally filed as an emergency adoption (R.1982 d.412) on November 1, 1982. Readopted as R.1982 d.497. Maximum benefit level changed from \$750.00 to \$900.00.

Emergency amendment, R.1984 d.538, effective and operative November 1, 1984 (expires December 31, 1984).

See: 16 N.J.R. 3217(a).

(b) added.

Adoption of concurrent proposal, R.1985 d.5, effective January 2, 1985.

See: 16 N.J.R. 3217(a), 17 N.J.R. 310(a).

Provisions of emergency amendment R.1984 d.538 readopted without change.

Amended by R.1988 d.422, effective September 6, 1988.

See: 20 N.J.R. 1060(a), 20 N.J.R. 2293(a).

Deleted \$900.00 and substituted "the maximum program benefit".

Emergency Amendment, R.1992 d.38, effective December 26, 1991 (expires February 24, 1992).

See: 24 N.J.R. 300(b).

In (a), maximum program benefits changed from \$900.00 to \$750.00.

Adopted concurrent proposal, R.1992 d.125, effective February 21, 1992.

See: 24 N.J.R. 300(b), 24 N.J.R. 952(b).

Provisions of emergency amendment R.1992 d.38 readopted without change.

Emergency amendment R.1998 d.82, effective January 9, 1998 (to expire March 10, 1998).

See: 30 N.J.R. 568(a).

In (a), increased the maximum receivable program benefits.

Adopted concurrent proposal, R.1998 d.168, effective March 10, 1998.

See: 30 N.J.R. 568(a), 30 N.J.R. 1285(a).

Emergency amendment, R.2000 d.160, effective March 23, 2000 (to expire May 22, 2000).

See: 32 N.J.R. 1426(a).

Added (c).

Emergency amendment, R.2000 d.160, expired May 22, 2000.

Deleted (c).

Amended by R.2005 d.130, effective May 2, 2005.

See: 37 N.J.R. 18(a), 37 N.J.R. 1518(b).

In (a), increased maximum benefit from \$900.00 to \$1,400, substituted "payments" for "permits" following "emergency rehousing".

### 10:89-3.6 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 LI-HEAP 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 Department of Community Affairs for weatherization. In addition, an amount not to exceed 10 percent of available funding is allocated for the cost of program administration, to be shared by both DCA and DHS. 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 N.J.A.C. 10:89-3.5, heating assistance shall not exceed \$1,400.

1. Each year the Department of Human Services will provide through a public notice published in the New Jersey Register, the benefit level matrix identifying benefit levels by household income, household size, fuel type, and geographical region.

(c) As provided at N.J.A.C. 10:89-3.4, emergency heating assistance shall not exceed \$400.00 for the initial purchase of fuel. An additional benefit of up to \$200.00 may be issued dependent on need.

(d) As provided at N.J.A.C. 10:89-3.3, medically necessary cooling assistance shall not exceed \$100.00.

(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, and in conformity with Federal law, regulation and contingencies, and may include the reopening of the application period.

As amended, R.1980 d.548, effective December 19, 1980.

See: 13 N.J.R. 100(b).

As amended, R.1982 d.497, effective December 30, 1982.

See: 14 N.J.R. 1311(a), 15 N.J.R. 92(c).

Originally filed as an emergency adoption (R.1982 d.412) on November 1, 1982. Readopted as R.1982 d.497. Kerosene and electricity added to Schedule A and payment schedule amounts increased.

As amended, R. 1983 d.465, effective October 17, 1983, operative November 1, 1983.

See: 15 N.J.R. 1338(a), 15 N.J.R. 1768(c).

Two benefit levels added, required by the increase in gross monthly income guidelines.

Emergency amendment and concurrent proposal amended, R.1984 d.538, effective and operative November 1, 1984 (expires December 31, 1984).

See: 16 N.J.R. 3217(a).

Substantially amended.

Emergency amendment readopted R.1985 d.5, effective January 2, 1985.

See: 16 N.J.R. 3217(a), 17 N.J.R. 310(a).

Emergency Amendment, R.1985 d.539, effective October 28, 1985 (operative November 1, 1985, expires December 27, 1985).

See: 17 N.J.R. 2791(a).

Schedules substantially amended.

Readopted amendment R.1985 d.708, effective December 24, 1985.

See: 17 N.J.R. 2791(a), 18 N.J.R. 194(a).

(b) Natural gas raised from "\$667.00" to "\$668.00"; (d) Renters amended from "\$918.01" to "\$918.00."

Emergency Amendment, R.1987 d.496, effective October 28, 1987 (operative November 1, 1987, expires December 27, 1987).

See: 19 N.J.R. 2208(a).

Old text repealed and new text substituted.

Adopted Concurrent Proposal as R.1988 d.46, effective December 24, 1987.

See: 19 N.J.R. 2208(a), 20 N.J.R. 291(b).

Amended by R.1988 d.422, effective September 6, 1988.

See: 20 N.J.R. 1060(a), 20 N.J.R. 2293(a).

Added "and renters" to (c).

Emergency Repeal and New Rule, R.1992 d.38, effective December 26, 1991 (expires February 24, 1992).

See: 24 N.J.R. 300(b).

Adopted emergency repeal and new rule, R.1992 d.125, effective February 21, 1992.

See: 24 N.J.R. 300(b), 24 N.J.R. 952(b).

Provisions of emergency repeal and new rule R.1992 d.38 readopted without change.

Adopted emergency repeal and new rule, R.1992 d.517, effective December 8, 1992, operative January 1, 1993 (expires February 6, 1993).

See: 24 N.J.R. 4593(a).

Reduction of HEA schedules by 17 percent across the board.

Adopted concurrent repeal and new rule, R.1993 d.97, effective January 28, 1993.

See: 24 N.J.R. 4593(a), 25 N.J.R. 997(a).

Provisions of emergency repeal and new rule, R.1992 d.517, adopted without change.

Emergency Repeal and New Rule, R.1996 d.47, effective December 21, 1995 (expires February 19, 1996).

See: 28 N.J.R. 293(a).

Adopted Concurrent Repeal and New Rule, R.1996 d.134, effective February 16, 1996.

See: 28 N.J.R. 293(a), 28 N.J.R. 1537(a).

Emergency Repeal and New Rule, R.1997 d.149, effective February 25, 1997 (to expire April 26, 1997).

See: 29 N.J.R. 940(a).

Adopted concurrent proposal, R.1997 d.207, effective April 25, 1997.

See: 29 N.J.R. 940(a), 29 N.J.R. 2473(a).

Emergency Repeal and New Rule, R.1998 d.82, effective January 9, 1998 (to expire March 10, 1998).

See: 30 N.J.R. 568(a).

Adopted concurrent proposal, R.1998 d.168, effective March 10, 1998.

See: 30 N.J.R. 568(a), 30 N.J.R. 1285(a).

Emergency Repeal and New Rule, R.1999 d.139, effective April 1, 1999 (to expire May 31, 1999).

See: 31 N.J.R. 1105(a).

Adopted concurrent proposal, R.1999 d.197, effective May 28, 1999.

See: 31 N.J.R. 1105(a), 31 N.J.R. 1614(a).

Repeal and New Rule, R.2000 d.16, effective January 3, 2000.

See: 31 N.J.R. 3187(a), 32 N.J.R. 60(a).

Section was "Payment schedule—DFD/DCA".

Public Notice: Home Energy Assistance income eligibility and benefits.

See: 32 N.J.R. 720(b).

Emergency amendment, R.2000 d.160, effective March 23, 2000 (to expire May 22, 2000).

See: 32 N.J.R. 1426(a).

Added (g).

Emergency amendment, R.2000 d.160, expired May 22, 2000.

Deleted (g).

Public Notice: Home Energy Assistance income eligibility and benefits.

See: 34 N.J.R. 605(b).

Public Notice: Home Energy Assistance income eligibility and benefits.

See: 35 N.J.R. 894(a).

Public Notice: Home Energy Assistance Program.

See: 36 N.J.R. 1132(a).

Amended by R.2005 d.130, effective May 2, 2005.

See: 37 N.J.R. 18(a), 37 N.J.R. 1518(b).

In (b), increased heating assistance amount from \$900.00 to \$1,400; rewrote (c).

Public Notice: Home Energy Assistance Program.

See: 38 N.J.R. 847(b), 4755(b).

Public Notice: Home Energy Assistance Program.

See: 39 N.J.R. 5374(a).

(b) Food Stamp households that have received or will receive automatic benefits but submit a separate application will have that application denied by the CAA or other non-profit agency.

(c) Households desiring HEA assistance must complete a Home Energy Assistance Application. The application must be completed and signed at sites designated by the CAA or other non-profit agency of the county in which the household resides. The application shall be signed by the household member responsible for payment of heating or cooling costs or by his or her authorized representative and by the CAA or other non-profit agency worker and supervisor.

1. Households consisting of persons who are 60 years of age or over, or persons who are disabled, may mail the application to the CAA or other non-profit agency. All households may apply by mail.

2. The CAA or other non-profit agency 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 CAA or other non-profit agency (e.g., the applicant is ill, bedridden, or for whom access to the CAA or other non-profit agency is difficult).

3. The CAA or other non-profit agency shall document the date of application recording on the application the date it was received by the CAA or other non-profit agency. 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 filed.

4. Program eligibility or ineligibility must be determined and the household notified of the decision within 30 days for all households.

5. The household must cooperate with the CAA or other non-profit agency 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 CAA or other non-profit agency shall advise the household of all program eligibility requirements and the method by which assistance will be provided. Additionally, the CAA or other non-profit agency shall assist the household in completing the application and explain what elements of eligibility must be verified. The CAA or other non-profit agency must advise the household what verification is required and explain that the case will be denied if verification is not provided.

1. The following must be verified, documented and retained in the case record by the CAA or other non-profit agency prior to transmitting the application to OIT.

- i. Name of the applicant and all household members;
- ii. Social Security number of the applicant;

(1) Any applicant for HEA-only who has not been assigned a Social Security number must be referred to

## SUBCHAPTER 4. APPLICATION PROCESS

### 10:89-4.1 Opportunity and decision to apply— DCA/CAA

(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 March 31 of each year. 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. Upon completion of the application process, the application shall be transmitted to 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 CAA or other non-profit agency shall accept the application from an authorized representative who is sufficiently familiar with the household's circumstances.

the local Social Security Administration district office to apply for same, and must submit verification of such application to the CAA or other non-profit agency;

iii. Address;

iv. Heating fuel type and supplier. The client shall present a bill or contract from the fuel supplier (the CAA or other non-profit agency may, with the consent of the household, contact the supplier for verification);

v. A rent receipt, cancelled check made out to the landlord, or lease if heat/utilities are included in the rent (the CAA or other non-profit agency 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 five 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 accompanied 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 CAA or other non-profit agency 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 CAA or other non-profit agency prior to data entry to ensure that it is complete and coded correctly.

2. Each CAA or other non-profit agency will receive a 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 CAA or other non-profit agency may not be able to submit the application for data entry because the household has not completed the application or it has not provided or refuses to provide verification that the CAA or other non-profit agency cannot otherwise obtain. In such instances, the CAA or other non-profit agency shall advise the household of the consequences of its noncooperation and hold the application, including mail applications, until the last working day before the expiration of the 30-day limit for action on the application to give the household an opportunity to cooperate. The application shall then be appropriately coded and transmitted to OIT. The CAA or other non-profit agency must record the specifics of the situation requiring this action.

1. Once the CAA or other non-profit agency has clearly established either that the household will not cooperate further or that the household believes it has provided sufficient verification, the application should be appropriately coded and transmitted to OIT. The household must receive a notice of denial and may contest this denial at a fair hearing.

(g) Generally, applications will be processed through the OIT computer system to a decision. However, the CAA or other non-profit agency 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 N.J.A.C. 10:89-2.3 (a);

2. The household is responsible for payment of its heating/cooling costs in accordance with N.J.A.C. 10:89-2.2(b);

3. The household meets the definition of "resident" provided in N.J.A.C. 10:89-2.2(a)1;

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

(h) If the CAA or other non-profit agency determines, based on the provisions of (g) above, that the household is ineligible, the household must be advised that its application will be denied.

(i) If a household's application is denied by the CAA or other non-profit agency, the CAA or other non-profit agency must code the application appropriately and submit it to OIT at the time of the denial.

(j) DCA or other non-profit agency will issue an adverse action notice to the household upon processing of the CAA or other non-profit agency denied application.

Amended by R.1982 d.497, effective December 30, 1982.

See: 14 N.J.R. 1311(a), 15 N.J.R. 92(c).

Originally filed as an emergency adoption (R.1982 d.412) on November 1, 1982. Readopted as R.1982 d.497. Language changed regarding earned income verification.

Amended by R.1983 d.465, effective October 17, 1983, operative November 1, 1983.

See: 15 N.J.R. 1338(a), 15 N.J.R. 1768(c).

The provision for issuance of supplemental payments to SSI households receiving automatic payments is deleted.

Emergency amendment and concurrent proposal amended, R.1984 d.538, effective and operative November 1, 1984 (expires December 31, 1984).

See: 16 N.J.R. 3217(a).

Substantially amended.

Emergency amendment readopted R.1985 d.5, effective January 2, 1985.

See: 16 N.J.R. 3217(a), 17 N.J.R. 310(a).

Amended by R.1985 d.492, effective October 7, 1985.

See: 17 N.J.R. 1737(a), 17 N.J.R. 2441(a).

Emergency Amendment, R.1985 d.539, effective October 28, 1985 (operative November 1, 1985, expires December 27, 1985).

See: 17 N.J.R. 2791(a).

(d)1(2) added text "If an applicant . . . submitting Form SS-5."

Readopted amendment R.1985 d.708, effective December 24, 1985.

See: 17 N.J.R. 2791(a), 18 N.J.R. 194(a).

Emergency Adoption R.1987 d.496, effective October 28, 1987 (operative November 1, 1987, expires December 27, 1987).

See: 19 N.J.R. 2208(a).

Added text to (a) "Heating assistance applications . . . of each year".

Adopted Concurrent Proposal as R.1988 d.46, effective December 24, 1987.

See: 19 N.J.R. 2208(a), 20 N.J.R. 291(a).

Amended by R.1988 d.482, effective October 17, 1988.

See: 20 N.J.R. 1643(a), 20 N.J.R. 2577(a).

Added (d)1i(2)(A) and new (d)1ii(2) and renumbered old (2)-(3) as (3)-(4).

Amended by R.1990 d.315, effective June 18, 1990.

See: 22 N.J.R. 599(a), 22 N.J.R. 1939(a).

In (a): revised date from "April 30" to "March 31" and from "June 30" to "May 31."

In (c)1: added text regarding application by mail of other households.

Emergency Amendment, R.1992 d.38, effective December 26, 1991 (expires February 24, 1992).

See: 24 N.J.R. 300(b).

In (d)1i(7), added "unearned income" and "any applicable documentation". In (d)1i(8), added "UIB, disability and support payments". Adopted concurrent proposal, R.1992 d.125, effective February 21, 1992.

See: 24 N.J.R. 300(b), 24 N.J.R. 952(b).

Provisions of emergency amendment R.1992 d.38 readopted without change.

Emergency Amendment R.1992 d.517, effective December 8, 1992, operative January 1, 1993 (expires February 6, 1993).

See: 24 N.J.R. 4593(a).

Application intake for heating and cooling assistance changed to end of February.

Adopted Concurrent Proposal, R.1993 d.97, effective January 28, 1993.

See: 24 N.J.R. 4593(a), 25 N.J.R. 997(a).

Provisions of emergency amendment, R.1992 d.517, adopted without change.

Emergency Amendment, R.1996 d.47, effective December 21, 1995 (expires February 19, 1996).

See: 28 N.J.R. 293(a).

Adopted Concurrent Proposal, R.1996 d.134, effective February 16, 1996.

See: 28 N.J.R. 293(a), 28 N.J.R. 1537(a).

Emergency amendment R.1997 d.149, effective February 25, 1997 (to expire April 26, 1997).

See: 29 N.J.R. 940(a).

Substituted "CAA or other non-profit agency" for "CWA" throughout; in (a), (e)2, and (g), substituted "DCA" for "DFD"; and in (e), substituted "DH&CR" for "DFD".

Adopted concurrent proposal, R.1997 d.207, effective April 25, 1997.

See: 29 N.J.R. 940(a), 29 N.J.R. 2473(a).

Emergency amendment R.1998 d.82, effective January 9, 1998 (to expire March 10, 1998).

See: 30 N.J.R. 568(a).

In (a), substituted a reference to February 28 for a reference to February 1 in the first sentence.

Adopted concurrent proposal, R.1998 d.168, effective March 10, 1998.

See: 30 N.J.R. 568(a), 30 N.J.R. 1285(a).

Emergency amendment, R.2000 d.160, effective March 23, 2000 (to expire May 22, 2000).

See: 32 N.J.R. 1426(a).

Added (k).

Emergency amendment, R.2000 d.160, expired May 22, 2000.

Deleted (k).

Amended by R.2005 d.130, effective May 2, 2005.

See: 37 N.J.R. 18(a), 37 N.J.R. 1518(b).

Rewrote the section.

## SUBCHAPTER 5. OTHER PROGRAM REQUIREMENTS

### 10:89-5.1 Establishment of Home Energy Assistance Units—DCA/CAA

(a) Community Action Agencies (CAAs) and other non-profit agencies shall establish separate Home Energy Assistance units to handle applications and all related program activity. CAAs or other non-profit agencies 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 established in N.J.A.C. 10:89-4.1(e), and that all required verification is documented in the case record.

(b) CAAs or other non-profit agencies must also comply with the following requirements:

1. Accept and process home energy assistance applications at any other office designated by the CAA or other non-profit agency to accept HEA applications;
2. Accept and process applications from elderly and disabled households which elect to apply by mail;
3. Provide home visits to accept applications from those households which are not eligible to apply by mail but cannot apply in person at the CAA or other non-profit agency (e.g., ill, bedridden, those for whom access to the CAA or other non-profit agency 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 insure such persons are advised of the existence of the program, their right to apply and their fair hearing rights;
5. Provide adverse action notices to those households whose payments are held by the CAA or other non-profit agency in accordance with (b)6 below;
6. Review all payments issued by DCA to ensure that payments are not issued to ineligible households or that households have not exceeded the maximum benefit established in Federal regulations.

Emergency Amendment, R.1985 d.539, effective October 28, 1985 (operative November 1, 1985, expires December 27, 1985).

See: 17 N.J.R. 2791(a).

"transmitted" substituted for "forwarded."

Readopted amendment R.1985 d.708, effective December 24, 1985.

See: 17 N.J.R. 2791(a), 18 N.J.R. 194(a).

Emergency amendment R.1997 d.149, effective February 25, 1997 (to expire April 26, 1997).

See: 29 N.J.R. 940(a).

In (a), substituted "Community Action Agencies (CAAs) and other non-profit agencies" for "County Welfare Agencies (CWAs)", "Department of Community Affairs (DCA)" for "Division of Family Development (DFD)", and "DCA" for "DFD"; in (b)1, substituted "HEA" for "Food Stamp"; in (b)6, substituted "DCA" for "DFD"; and substituted references to CAA or other non-profit agencies for references to CWA throughout.

Adopted concurrent proposal, R.1997 d.207, effective April 25, 1997.

See: 29 N.J.R. 940(a), 29 N.J.R. 2473(a).

Amended by R.2005 d.130, effective May 2, 2005.

See: 37 N.J.R. 18(a), 37 N.J.R. 1518(b).

In (a), substituted "OIT" for "DCA" preceding "within the time limits" in the second sentence.

### 10:89-5.2 Notice requirements—DCA/CAA/CWA

(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 for the Home Energy Assistance Program.

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.

(d) Households receiving NPA FS 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.

As amended, R.1982 d.497, effective December 30, 1982.

See: 14 N.J.R. 1311(a), 15 N.J.R. 92(c).

Originally filed as an emergency adoption (R.1982 d.412) on November 1, 1982. Readopted as R.1982 d.497. Full explanation of use of Form EP-2C (Right to a Hearing).

Amended by R.1985 d.492, effective October 7, 1985.

See: 17 N.J.R. 1737(a), 17 N.J.R. 2441(a).

(c)1 deleted.

Emergency amendment R.1997 d.149, effective February 25, 1997 (to expire April 26, 1997).

See: 29 N.J.R. 940(a).

Deleted reference to Form EP-2 throughout section; in (a), substituted "A right to a hearing notification will be printed on all denial notices" for "Form EP-2C (Right to a Hearing) will accompany all notices"; in (b), changed Department reference and deleted provision making CWA responsible for mailing notice; in (b)2 and (b)3, inserted reference to computer generated forms; in (d), deleted reference to AFDC and provision that notice will advise to contact CWA for further information; and deleted (e), making CWA responsible for mailing forms to households.

Adopted concurrent proposal, R.1997 d.207, effective April 25, 1997.

See: 29 N.J.R. 940(a), 29 N.J.R. 2473(a).

### Case Notes

Due process held to not require bilingual notices; cited as example of agency requirements for Spanish translation of notices. *Alfonso v. Bd. of Review, Dept. of Labor and Industry*, 89 N.J. 41, 444 A.2d 1075 (1982) appeal dismissed, certiorari denied 103 S.Ct. 30, 459 U.S. 806, 74 L.Ed.2d 45 (1982).

### 10:89-5.3 Recoupment of overpayments—CAA/CWA

(a) "Overpayments" shall include the following:

1. Households which received more than \$750.00 in HEA benefits during any program year prior to October 1, 1982, \$900.00 during the period between October 1, 1982 and October 1, 1999, or \$1,400 from October 1, 1999 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, that is, 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 CAA or other non-profit agency 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 CAA or other non-profit agency 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 \$750.00, \$900.00 or \$1,400 as appropriate, or the amount determined by the CWA or CAA or other non-profit agency to have constituted the overpayment.

2. Immediately upon discovery of an overpayment, the CWA or CAA or other non-profit agency shall inform the household in writing of the amount overpaid, how the overpayment was calculated and request repayment.

3. If the household makes repayment, the amount recovered shall be treated in accordance with procedures established by DFD's Bureau of Business Services or DCA's fiscal office.

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. The CWA or CAA or other non-profit agency 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 N.J.A.C. 10:89-5.2.

As amended, R.1982 d.497, effective December 30, 1982.

See: 14 N.J.R. 1311(a), 15 N.J.R. 92(c).

Originally filed as an emergency adoption (R.1982 d.412) on November 1, 1982. Readopted as R.1982 d.497. Language added addressing increase in benefit level after October 1, 1982 and duplicative benefits. Emergency amendment and concurrent proposal amended, R.1984 d.538, eff. and operative November 1, 1984 (expires December 31, 1984).

See: 16 N.J.R. 3217(a).

Substantially amended.

Emergency amendment readopted R.1985 d.5, effective January 2, 1985.

See: 16 N.J.R. 3217(a), 17 N.J.R. 310(a).

Amended by R.1988 d.422, effective September 6, 1988.

See: 20 N.J.R. 1060(a), 20 N.J.R. 2293(a).

(a) Deleted text "or" and "any program year" and added "the period between . . . any program year".

Emergency amendment R.1997 d.149, effective February 25, 1997 (to expire April 26, 1997).

See: 29 N.J.R. 940(a).

Inserted reference to CAA or other non-profits throughout; in (b)3, inserted reference to DCA's fiscal office.

Adopted concurrent proposal, R.1997 d.207, effective April 25, 1997.

See: 29 N.J.R. 940(a), 29 N.J.R. 2473(a).

Amended by R.2005 d.130, effective May 2, 2005.

See: 37 N.J.R. 18(a), 37 N.J.R. 1518(b).

In (a), substituted "1999, or \$1400 from October 1999" for "1987 or \$900.00" preceding "exclusive of emergency" in 1, substituted "application" for "special" preceding "energy entitlement" in 2; in (b), inserted "or \$1400" preceding "as appropriate" in 1.

#### 10:89-5.4 Lost or stolen checks—CAA/CWA

(a) Households whose energy check has been lost or stolen must report the loss to the CWA or CAA or other non-profit agency.

1. CWAs and CAAs or other non-profit agencies shall complete a Request for Check Replacement, Form EP-101, retain a copy of the form in the case record and forward the original and two copies to DFD or DCA for processing.

2. Additionally, the CWA and CAA or other non-profit agency shall comply with all other fiscal procedures regarding lost or stolen energy checks.

Emergency amendment R.1997 d.149, effective February 25, 1997 (to expire April 26, 1997).

See: 29 N.J.R. 940(a).

Inserted reference to CAA or other non-profits throughout.

Adopted concurrent proposal, R.1997 d.207, effective April 25, 1997.

See: 29 N.J.R. 940(a), 29 N.J.R. 2473(a).

#### 10:89-5.5 Outreach requirements—CAA

(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) CAA or other non-profit agency 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 Food Stamp 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, 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) CAAs or other non-profit agencies may initiate other outreach activities as they deem appropriate.

(e) CAAs or other non-profit agencies are permitted to outstation staff at other agencies to take applications or to assist in reviewing applications taken by staff of those agencies.

Amended by R.1995 d.172, effective March 20, 1995.

See: 26 N.J.R. 4726(a), 27 N.J.R. 1317(a).

Emergency amendment R.1997 d.149, effective February 25, 1997 (to expire April 26, 1997).

See: 29 N.J.R. 940(a).

In (c), (d), and (e), substituted reference to CAA or other non-profits for reference to CWAs; and deleted (f), requiring CWAs to submit report describing outreach efforts.

Adopted concurrent proposal, R.1997 d.207, effective April 25, 1997.

See: 29 N.J.R. 940(a), 29 N.J.R. 2473(a).

Recodified from N.J.A.C. 10:89-5.6 by R.2005 d.130, effective May 2, 2005.

See: 37 N.J.R. 18(a), 37 N.J.R. 1518(b).

Former N.J.A.C. 10:89-5.5, was reserved.

#### 10:89-5.6 Referral to weatherization—DCA/CAA

(a) The Department of Community Affairs (DCA) supervises local community action agencies (CAAs) and other non-profit agencies which administer weatherization programs.

(b) At the time of application, CAAs or other non-profit agencies 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 CAA will be requested to refer the household to all other local energy conservation programs.

3. Energy applications will be coded to indicate to which CAA the applicant was referred.

4. This referral will be followed-up by a computer generated report listing all weatherization referrals. This report will be shared with DCA and the CAA.

Amended by R.1985 d.492, effective October 7, 1985.

See: 17 N.J.R. 1737(a), 17 N.J.R. 2441(a).

Emergency amendment R.1997 d.149, effective February 25, 1997 (to expire April 26, 1997).

See: 29 N.J.R. 940(a).

In (a), inserted reference to other non-profits; in (b), substituted "CAAs or other non-profit agencies" for "CWAs"; and in (b)1, deleted "directly to the local CAA" following "will be referred".

Adopted concurrent proposal, R.1997 d.207, effective April 25, 1997.

See: 29 N.J.R. 940(a), 29 N.J.R. 2473(a).

Recodified from N.J.A.C. 10:89-5.7 and amended by R.2005 d.130, effective May 2, 2005.

See: 37 N.J.R. 18(a), 37 N.J.R. 1518(b).

Former N.J.A.C. 10:89-5.6, Outreach requirements—CAA, recodified to N.J.A.C. 10:89-5.5.

#### 10:89-5.7 (Reserved)

Recodified to N.J.A.C. 10:89-5.6 by R.2005 d.130, effective May 2, 2005.

See: 37 N.J.R. 18(a), 37 N.J.R. 1518(b).

Former N.J.A.C. 10:89-5.7, Referral to weatherization—DCA/CAA, repealed.