

CHAPTER 89

HOME ENERGY ASSISTANCE HANDBOOK

Authority

N.J.S.A. 30:4B-2.

Source and Effective Date

R.1995 d.172, effective February 27, 1995.
See: 27 N.J.R. 4726(a), 27 N.J.R. 1317(a).

Executive Order No. 66(1978) Expiration Date

Chapter 89, Home Energy Assistance Handbook, expires on February 27, 2000.

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). Chapter 89 was substantially amended by Emergency Amendments adopted as R.1981 d.466, effective November 17, 1981. See: 13 N.J.R. 888(a). These emergency amendments were readopted as R.1982 d.62, effective February 17, 1982. See: 13 N.J.R. 888(a), 14 N.J.R. 281(c). Chapter 89 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 the provisions of P.L.1989, c.88, all references to the Division of Public Welfare were changed to the Division of Economic Assistance. Subsequently, the division was renamed the Division of Family Development. Pursuant to Executive Order No. 66(1978), Chapter 89 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 was readopted as R.1995 d.172. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. GENERAL PROVISIONS

10:89-1.1 Fair hearings

(a) Any household is entitled to, and upon request will receive an administrative review or a fair hearing if any of the following occurs:

1. The household's application is denied;
2. The household's application is neither approved nor denied within 30 days after application (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 or for a shorter duration than the household was notified.

(b) Each household requesting a hearing will receive an initial review on the papers available to DFD. 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 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 Aid to Families with Dependent Children (AFDC) program fair hearings procedures contained in N.J.A.C. 10:81-6.

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).

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

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 CWA worker shall be expected to make a judgement, based on his/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 a judgement should be referred to the Home Energy Assistance Unit for direction.

(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).

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. Household defined: 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. Resident defined: 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/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. 10:81-3.47(a) and N.J.A.C. 10:87-10.16(a).

4. Illegal aliens are ineligible for Home Energy Assistance benefits. In cases where an illegal alien resides within an applicant household, the alien must be excluded from the HEA household size. If the illegal 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.

5. Certain aliens legalized under the Immigration Reform and Control Act of 1986 are temporarily ineligible for HEA benefits (see also N.J.A.C. 10:87-3.8(a)1, and (a)8 through 11 for limitations.)

(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) For all households including those receiving automatic payments (N.J.A.C. 10:89-3.1) the household's income must be less than or equal to the allowable gross monthly income eligibility limits for the applicable household size (N.J.A.C. 10:89-2.3(g)). Those denied may apply for special assistance again if their income is reduced.

(d) The value of resources is not considered in the determination of eligibility for benefits under this program.

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.

10:89-2.3 Income eligibility

(a) In order to be income eligible for the program, a household's monthly gross earned and unearned income may not exceed the monthly allowable gross income limit for the household size as found in (g) below. The income of all household members is counted toward the limit except that income specifically excluded by (e) below.

(b) Regardless of income eligibility, the following households are not eligible for program benefits:

1. Persons residing in publicly operated housing unless the household can demonstrate that it has direct responsibility for payment of its heating costs. Energy costs included in rent which is subsidized do not qualify as out-of-pocket payments for heating costs;
2. Persons receiving a rent subsidy which includes all heating costs. Energy costs included in rent which is subsidized do not qualify as out-of-pocket payments for heating costs;
3. Persons for whom 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 defined: Earned income refers to gross income earned by an individual through the receipt of wages, tips, salaries or commissions from activities in which he/she is engaged as an employee or from his/her self-employment. It includes earning 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 defined: 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. 10:82-4.12 in the Assistance Standards Handbook to determine countable income from the rental of property.)

(e) Income exclusions: 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. The value of home produce;
4. The value of food stamp benefits;
5. Benefits provided under the State Lifeline Program including supplemental payments under the Tenants Lifeline Assistance program which are included in the SSI check;
6. Income excluded by law:

i. Federal relocation reimbursements: Reimbursements from the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970.

ii. Payments to volunteers: 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. Crisis Intervention Program: Payments from the Crisis Intervention Program administered by the Community Services Administration.

iv. Payments from certain youth projects: 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); and

v. Payments from the Child Care and Development Block Grant (CCDBG) program: Payments received by eligible parents under 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.

7. Medicare Part B Buy-In which is withheld from the household's Social Security check.

(f) Income computation: 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 household's total gross monthly income is equal to or less than the gross income limit for the household size, the household is income eligible for Home Energy Assistance.

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

2. 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.

3. 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.

4. 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, in accordance with N.J.A.C. 10:82-4.3(c) in the Assistance Standards Handbook, any income to the household in excess of \$96.00 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.

5. If a household member received Social Security benefits and/or SSI the CWA 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 aware letter rather than a check as evidence of income, the CWA 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 CWA 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.

6. 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.

(g) Gross Income Eligibility Limits for Home Energy Assistance:

<u>Household Size</u>	<u>Monthly Allowable Gross Income Limits</u>
1	\$ 934
2	1,254
3	1,574
4	1,894
5	2,214
6	2,534
7	2,854
8	3,174
9	3,494
10	3,814
Each Additional Member	+ 320

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).

SUBCHAPTER 3. PROGRAM BENEFITS

10:89-3.1 Automatic payments to certain households

(a) Recipient households:

1. Certain households eligible for and receiving AFDC or non-public assistance (NPA) 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. Where the household receives FS as a public assistance (PA) household and the PA FS household is greater than the AFDC eligible unit, the automatic payment shall be based on the PA FS household size. This information will be collected from the head of the household at each application, reapplication or recertification for AFDC or FS and will be updated whenever the household reports a change. However, once a household becomes eligible for automatic payments, the entitlement cannot be adjusted.

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.

iii. The following households are not eligible for automatic payments.

(1) Persons residing in publicly operated housing or 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;

(2) Persons for whom nonhousehold 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 AFDC, GA or SSI grants, exceeds the total income eligibility standards in N.J.A.C. 10:89-2.3(g).

2. Eligible households which heat by electricity or natural gas 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 utility." Households which heat by oil, coal, wood, propane and kerosene 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."

3. SSI households: Since the State Data Exchange (SDX) no longer contains sufficient information to determine eligibility for HEA, automatic payments cannot be issued directly to SSI recipients. However, the Division of Family Development has determined that a significant number of SSI recipients receive NPA-FS; therefore, many will receive benefits as members of such households. The Division will also send letters to all other potentially eligible SSI recipients inviting them to file an 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. 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.

10:89-3.2 Special energy assistance

(a) Upon application at the CWA, 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 special energy assistance in accordance with this section. In order to be eligible for special energy assistance, the household must be income eligible (see N.J.A.C. 10:89-2.3).

(b) No special 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) No special assistance shall 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) No special assistance shall 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 appropriate benefit level in Schedule A, B, C or D of this chapter for the household's size, income, fuel type, and heating region.

2. For program purposes a household's benefit will be determined as follows:

i. If the household is directly responsible to the fuel vendor for payment the benefit will be based on Schedule A, B or C of this chapter, as appropriate;

ii. If the household is otherwise directly responsible for payment of the fuel charge (e.g., the landlord bills the household as a separate charge from rent for fuel use although the landlord remains responsible to the fuel vendor) the benefit will be based on Schedule C of this chapter; or

iii. If heat is included in a single monthly rental charge the benefit will be based on Schedule C.

3. The household must provide evidence that it is responsible for payment of fuel costs.

4. A household directly responsible to a public utility or participating fuel supplier for payment of heating costs will receive the special energy 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 or, if the heating fuel is electricity or natural gas, the copayee shall be designated "your heating utility."

5. A household directly responsible for payment of heating costs to any non-participating fuel supplier will receive the special 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 CWA 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 CWA 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).

10:89-3.3 Cooling assistance

(a) Income eligible households for which there is medical evidence that the health of at least one household member will be seriously endangered unless the household's living quarters are cooled, shall receive a one-time 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. If the evidence is questionable, the CWA shall refer it to the Division of Family Development, Bureau of Medical Affairs, for determination of health endangerment.

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).

10:89-3.4 Emergency energy assistance

(a) Emergency energy assistance is available to HEA eligible households and is subject to the following conditions:

1. An energy emergency shall exist when a 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 CWA.

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 \$200.00 for the 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 \$200.00 maximum amount for purchase of electricity or natural gas.

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 CWA 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" and N.J.A.C. 10:89-3.2, "Special energy assistance" 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 CWA 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 CWA 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 client from the CWA on Administrative Account No. 57. The CWA will subsequently be reimbursed by DFD for such payments.

1. Emergency energy assistance benefits may, at the discretion of the agency, be issued as a two party check payable to the head of household and the fuel supplier or utility company.

(c) Emergency purchase of fuel:

1. The CWA is authorized to issue an emergency payment for the purchase of fuel 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 CWA 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 CWA 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) CWAs 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 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 CWA will be reimbursed retroactively for emergency rehousing assistance provided to eligible households.

4. The CWA 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. 10:82-5.10.

5. If the request for Emergency Rehousing Assistance reimbursement is approved, the HEA check, when received, must be credited against the account from which the payment was initially made;

6. If in an energy related emergency the CWA finds it necessary to reestablish an HEA eligible household in a new permanent living arrangement, the CWA 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.

2. Emergency assistance to prevent eviction may not exceed the difference between the amount of the HEA entitlement for the program year and \$750.00, 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 CWA 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 \$200.00 which includes the emergency purchase of fuel and the reconnection fee; and

vii. The county welfare agency (CWA) 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 an amount greater than \$200.00 to restore or maintain service, prior to issuing the emergency payment, the CWA 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 \$200.00. 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 connection 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.

10:89-3.5 Maximum program benefit

(a) An eligible household may receive a maximum of \$750.00 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.

10:89-3.6 Payment schedule

(a) Schedule A: Electricity, Natural Gas:

Household Size Region Designation Monthly Income	1 or 2		3 to 5		6 or more	
	Blue	Red	Blue	Red	Blue	Red
\$0-\$667.00	229	199	306	266	367	320
\$668.00-\$1084.00	192	167	255	222	306	266
\$1085.00-\$1501.00	154	132	204	177	245	213
\$1502.00-\$1918.00			152	132	184	159
\$1919.00-\$2335.00			101	88	122	106
Over \$2335.00					61	52

"Blue" means Sussex and Warren counties.
 "Red" means all other counties.

(b) Schedule B: Fuel Oil, Kerosene:

Household Size Region Designation Monthly Income	1 or 2		3 to 5		6 or more	
	Blue	Red	Blue	Red	Blue	Red
\$0-\$667.00	216	188	289	251	346	301
\$668.00-\$1084.00	179	156	240	210	289	251
\$1085.00-\$1501.00	144	126	192	168	232	201
\$1502.00-\$1918.00			144	126	173	150
\$1919.00-\$2335.00			96	83	115	100
Over \$2335.00					57	49

"Blue" means Sussex and Warren counties.
 "Red" means all other counties.

(c) Schedule C: All other fuel and renters:

Household Size Region Designation Monthly Income	1 or 2		3 to 5		6 or more	
	Blue	Red	Blue	Red	Blue	Red
\$0-\$667.00	142	123	189	163	227	198
\$668.00-\$1084.00	117	102	156	137	189	163
\$1085.00-\$1501.00	95	83	126	109	150	131
\$1502.00-\$1918.00			94	82	113	98
\$1919.00-\$2335.00			62	55	76	66
Over \$2335.00					37	32

"Blue" means Sussex and Warren counties.
 "Red" means all other counties.

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).

SUBCHAPTER 4. APPLICATION PROCESS

10:89-4.1 Opportunity and decision to apply

(a) Any individual(s) who believes he or she or his or her household is eligible for HEA must be given the opportunity to apply without delay. Heating and cooling assistance applications shall be accepted from November 1 through February 1 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 DFD 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 CWA shall accept the application from an authorized representative who is sufficiently familiar with the household's circumstances.

(b) AFDC households which have received or will receive automatic benefits but submit a separate application will have that application denied by the CWA.

(c) Households desiring HEA assistance must complete a separate Form EP-1, Home Energy Assistance Application. The application must be completed and signed at sites designated by the CWA 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 CWA 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 CWA. Other households may apply by mail at the discretion of the CWA.

2. The CWA 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 CWA (e.g., the applicant is ill, bedridden, or for whom access to the CWA is difficult).

3. The CWA shall document the date of application recording on the application the date it was received by the CWA. 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 20 days for households consisting of the elderly or disabled, and within 30 days for all other households.

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

1. Verification requirements: The CWA shall assist the household in obtaining the required verification.

i. Required documentation: The following must be verified, documented and retained in the case record by the CWA prior to transmitting the application to DFD:

(1) Name of applicant;

(2) Social Security number of the applicant. If an applicant has not previously obtained a Social Security number, the CWA shall ensure that the applicant applies for a Social Security number by submitting Form SS-5. (Social Security numbers for all other adult household members shall be recorded);

(A) SS-5 forms may not be utilized to enumerate HEA only applicants (those who do not have an AFDC or Food Stamp Program case number). Any applicant for HEA-only who has not been assigned a Social Security number must be referred to the local Social Security Administration district office to apply for same, and must submit verification of such application to the CWA.

(3) Address;

(4) Heating fuel type and supplier. The client shall present a bill or contact from the fuel supplier (the CWA may, with the consent of the household, contact the supplier for verification);

(5) A rent receipt, cancelled check made out to the landlord, or lease if heat/utilities are included in the rent (the CWA may, with the consent of the household, contact the landlord for verification);

(6) 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;

(7) Earned and unearned income shall be verified by wage stubs or any applicable documentation relative to any consecutive four week period within the five weeks before the date the client signs the Form EP-1 or reports a change in earnings;

(8) Other income including pensions, outside contributions, interest, dividends, UIB, disability, and support payments;

(9) 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

(10) For emergency energy payments, the emergent situation. This shall be accompanied by collateral contact and client affidavit, if required.

ii. Documentation of questionable information: The following must be verified and documented if the information provided by the applicant is questionable or inconsistent:

(1) Composition of the household;

(2) Gross monthly income and total monthly household expenditures;

(3) Home ownership; and

(4) Social Security numbers for household members which were not verified in accordance with (d)1i(2) above.

(e) The CWA shall transmit application data to DFD via computer terminal for each Form EP-1 within four working days of receipt of the completed application and retain a copy in the case record.

1. Form EP-1 shall be screened by the CWA prior to data entry to ensure that it is complete and coded correctly.

2. Each CWA will receive a listing of its cases which were rejected upon data entry. All cases on this report must be corrected and retransmitted to DFD.

(f) In certain instances, the CWA may not be able to submit Form EP-1 for data entry because the household has not completed the application or it has not provided or refuses to provide verification which the CWA cannot otherwise obtain. In such instances, the CWA 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. Form EP-1 shall then be appropriately coded and transmitted to DFD. The CWA must record the specifics of the situation requiring this action.

1. Once the CWA 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 DFD. The household must receive a notice of denial and may contest this denial at a fair hearing.

(g) CWA responsibility for eligibility determinations: Generally applications will be processed through the DFD computer system to a decision. However, the CWA 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(g);

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 CWA 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 CWA, the CWA must code the application appropriately and submit it to DFD at the time of the denial.

(j) DFD will issue an adverse action notice to the household upon processing of the CWA 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).

SUBCHAPTER 5. OTHER PROGRAM REQUIREMENTS

10:89-5.1 Establishment of Home Energy Assistance Units

(a) County welfare agencies (CWAs) shall establish separate Home Energy Assistance units to handle applications and all related program activity. CWAs 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 Division of Family Development (DFD) instructions, transmitted to DFD 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) CWAs must also comply with the following requirements:

1. Accept and process home energy assistance applications at any other office designated by the CWA to accept Food Stamp 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 CWA (e.g., ill, bedridden, those for whom access to the CWA 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 CWA in accordance with (b)6 below;

6. Review all payments issued by DPW 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).

10:89-5.2 Notice requirements

(a) Form EP-2C, (Right to a Hearing) will accompany all 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 Division of Public Welfare or the CWA, as appropriate, will generate notices (Notice of Home Energy Assistance Action, Form EP-2) informing the household of

any action taken on its application. The CWA is responsible for promptly mailing Form EP-2 to the household.

1. This notice of eligibility or denial (Form EP-2) is sent to applicants for the Home Energy Assistance Program.

2. For households determined eligible, Form EP-2 will advise the household of the amount of assistance to which they are entitled.

3. For households which are denied, Form EP-2 will advise the household of the reason for denial.

(c) Households receiving automatic payments shall receive a notice. (Notice of Home Energy Assistance Action, Form EP-2) included with the energy payment. The notice will advise the household of the amount of assistance to which they are entitled.

1. This notice of eligibility or ineligibility for automatic payment (Form EP-3) is sent to AFDC and SSI recipients. If eligible, the notice will advise the client of the entitlement amount. If ineligible for automatic payment, the notice will specify the reason for ineligibility and will advise the client of his/her right to apply for benefits if he/she wishes.

(d) Households receiving AFDC or NPA FS which do not receive automatic payments shall also receive a Notice of Home Energy Assistance Action (Form EP-2) explaining why the household was not selected for an automatic payment. The notice will advise the household to contact the CWA for further information.

(e) The CWA is responsible for promptly mailing Form EP-2C and computer generated Form EP-2 to the household.

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.

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

(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, 1987, or \$900.00 exclusive of emergency rehousing payments and emergency furnace repair payments during any program year thereafter shall be considered to have been overpaid.

2. Households which receive benefits which are duplicative, i.e., households receiving more than one full automatic and/or special 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 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 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 or \$900.00 as appropriate, or the amount determined by the CWA to have constituted the overpayment.

2. Immediately upon discovery of an overpayment, the CWA shall inform the household in writing of 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 DEA's Bureau of Business Services.

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 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, 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.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".

10:89-5.4 Lost or stolen checks

(a) Households whose energy check has been lost or stolen must report the loss to the CWA.

1. CWAs 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 DFA for processing.

2. Additionally, the CWA shall comply with all other fiscal procedures regarding lost or stolen energy checks.

10:89-5.5 (Reserved)

10:89-5.6 Outreach requirements

(a) An outreach network and referral system must be established in each county to advise potentially eligible households of the availability of energy assistance.

(b) Outreach activities must be implemented to ensure the identification and provision of services to the following:

i. 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) CWA 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) CWAs may initiate other outreach activities as they deem appropriate.

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

(f) CWAs must submit a report describing all outreach efforts undertaken to the Outreach Coordinator, Home Energy Assistance Unit, Division of Family Development, by December 1, of the appropriate program year.

Amended by R.1995 d.172, effective March 20, 1995.
See: 26 N.J.R. 4726(a), 27 N.J.R. 1317(a).

10:89-5.7 Referral to weatherization

(a) The Department of Community Affairs (DCA) supervises local community action agencies (CAA) which administer weatherization programs.

(b) At the time of application, CWAs will discuss with applicants the advantages and availability of weatherization programs.

1. Applicants interested in weatherization will be referred directly to the local CAA 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, the CAA and the CWA.

Amended by R.1985 d.492, effective October 7, 1985.
See: 17 N.J.R. 1737(a), 17 N.J.R. 2441(a).

10:89-5.8 (Reserved)