

5. The release of information or files to any law enforcement authority of this State charged with the investigation or prosecution of violations of the criminal laws of this State;

6. The release of information to the Department and participating licensed veterinarians for the purpose of verifying eligibility for benefits under the Animal Population Control Program; or

7. The release of information on files for the purpose of determining eligibility for the Universal Service Fund (USF) program or for the distribution of USF benefits.

2. Process applications;
3. Certify to the Treasurer, State of New Jersey, the names of eligible tenants;
4. Notify the utility company(ies) of eligible applicants and the amount of credit to be applied to their accounts; and
5. Microfilm eligibility applications and supporting documents and retain microfilm for audit purposes.

(c) The applicant has the responsibility to:

1. Complete the Lifeline eligibility application form truthfully, legibly and accurately.
  - i. All application questions must be fully answered;
  - ii. All necessary documentation of eligibility must be submitted to the Lifeline Program;
  - iii. Read the certification and authorization and sign (or mark) the application; and
  - iv. Obtain the signature (or mark) of the spouse (if married) and the signature of the preparer (if applicable) on the application;
2. Assist the Department in obtaining documentation that supports his or her statements, when required; and
3. Agree to a review by the Department. Lifeline eligibility may be terminated and benefits recovered if the beneficiary refuses to cooperate with a quality control review.

(d) The beneficiary has the responsibility to notify the Department whenever one of the following occurs:

1. He or she moves out of the State of New Jersey;
2. His or her or their annual income increases to an amount which exceeds the eligibility limit;
3. His or her marital status changes;
4. He or she moves anywhere within the State of New Jersey; or
5. He or she is determined to be ineligible for continued Social Security Disability benefits.

(e) The beneficiary has the responsibility to repay the State of New Jersey, upon request, for the cost of benefits incorrectly paid on his or her behalf.

### SUBCHAPTER 3. APPLICATION PROCESS

#### 8:83A-3.1 General provisions

The application process includes all activity relating to a request for a Lifeline eligibility determination. It begins with the receipt by the Department of an eligibility application and continues in effect until there is an official disposition of the eligibility request by the Department.

#### 8:83A-3.2 Authorized agent

(a) In those instances where the applicant is incompetent or incapable of filing a Lifeline eligibility application on his or her own behalf, the Department shall recognize any of the following persons listed in order of priority, as an authorized agent for the purpose of initiating such application:

1. Power of attorney;
2. A close relative by blood or marriage; such as parent, spouse, son, daughter, brother or sister;
3. A representative payee designated by the Social Security Administration;
4. A staff member of a public or private social service agency, of which the person is a client, who has been designated by the client to so act;
5. A friend.

#### 8:83A-3.3 Responsibilities in the application process

(a) Pursuant to statutory authority, N.J.S.A. 48:2-29.31, the Department shall establish procedures on the application process consistent with law and supervises the operation with the policy and procedures so established.

(b) The Department, through a Memorandum of Understanding with BPU, has responsibility in the application process to:

1. Explain the purposes and eligibility requirements of the program and indicate the applicant's rights and responsibilities under its provisions;

### SUBCHAPTER 4. ELIGIBILITY

#### 8:83A-4.1 Eligibility requirements

(a) To be eligible for the Lifeline Credit Program, an individual shall be a resident and the residential utility

customer each year or the spouse of a residential utility customer and satisfy one of the following criteria:

1. Be a Pharmaceutical Assistance to the Aged and Disabled beneficiary or determined to be eligible for PAAD benefits; or
2. Meet the residency, income, and age or disability requirements of the PAAD Program but apply for Lifeline Credit only. (See N.J.A.C. 8:83A-4.8(b).)

(b) When an individual is not a residential utility customer but is a tenant, as defined in N.J.A.C. 8:83A-1.3, who has the cost of utilities included in his or her monthly rental and the individual meets the eligibility requirements as outlined in (a)1 and 2 above, the individual is eligible to receive benefits from The Tenants Lifeline Assistance Program.

#### 8:83A-4.2 Income standards

(a) Any single permanent resident of New Jersey who is 65 years of age or who is under 65 and over 18 years of age and is receiving Social Security Title II disability benefits must have an annual income of less than \$20,437 to be eligible for Lifeline.

(b) Any married permanent resident of New Jersey who is 65 years of age or who is under 65 and over 18 years of age and is receiving Social Security Title II disability benefits must have a combined (applicant and spouse) annual income of less than \$25,058 to be eligible for Lifeline.

1. An applicant and spouse shall be considered separated when each maintains a separate residence and the applicant does not have access to or receive support from the spouse's income.

i. Any support payment received by the applicant, for the sole benefit of the applicant, shall be considered as income for Lifeline eligibility purposes.

2. An applicant and spouse shall be considered separated when the spouse has been institutionalized in a long-term care facility, either skilled or intermediate, or in a State or county psychiatric hospital at least 30 consecutive days prior to application.

(c) All income, from whatever source derived, is considered when determining eligibility for Lifeline.

1. All income, taxable and nontaxable, is to be included. Examples of possible sources of income (gross amounts unless otherwise noted) are as follows:

- i. Social Security benefits paid to or on behalf of the applicant;
- ii. Veterans benefits;
- iii. Disability benefits, whether public or private;
- iv. Salaries;
- v. Wages;

- vi. Bonuses;
- vii. Commissions;
- viii. Fees;
- ix. Dividends;
- x. Interest taxable and nontaxable;
- xi. Capital gains;
- xii. Royalties;
- xiii. Bequests and Death benefits;
- xiv. Support payments;
- xv. Unemployment benefits;
- xvi. Pensions and Black Lung Benefits;
- xvii. Annuities (contributory and noncontributory, qualified and nonqualified);
- xviii. Retirement benefits including distribution from Individual Retirement Arrangements (IRAs) (Traditional, Simple, Roth, Educational) and benefit payments from foreign countries;
- xix. Business income (net);
- xx. Fair market value of prizes and awards;
- xxi. Gambling and lottery winnings; and
- xxii. Rental income (net after expenses).

2. Sources of income which are excluded in considering eligibility for Lifeline are as follows:

- i. Benefit amounts received under the New Jersey State Lifeline Credit Program/Tenants Lifeline Assistance Program;
- ii. Benefits received under New Jersey Homestead Rebates;
- iii. Proceeds from spouse's life insurance;
- iv. Capital gains of up to \$250,000 for a single person or up to \$500,000 for a married couple on the sale of a main home which is also excluded from income taxation by IRS and the New Jersey Division of Taxation;
- v. Stipends from the Volunteers to Service in America (VISTA), Foster Grandparents programs, Workforce 55+ program and programs under Title V of the Older Americans Act of 1965;
- vi. Agent Orange payments;
- vii. Reparation payments to Japanese Americans by the Federal government pursuant to sections 105 and 106 of the Civil Liberties Act of 1988, P.L. 100-383 (50 U.S.C. App. 1989b-4 and 1989b-5);
- viii. Rewards involving health care fraud or abuse which apply to N.J.A.C. 10:49-13.4;

- ix. Holocaust reparations;
- x. Proceeds from viatical settlements;
- xi. Proceeds received by the beneficiary of a Special Needs Trust (see N.J.A.C. 8:83A-4.2(d) for provisions);
- xii. Rollovers from one tax deferred financial instrument (pension, annuity, IRA, insurance contract or other retirement benefits) to another tax deferred financial instrument;
- xiii. 1035 Tax Free Exchanges of a policy or contract handled between two insurance companies; and
- xiv. An insurance policyholder's original contributions if Demutualization of the policy occurs (in that case, only the earnings on the policy would be counted).

(d) To be considered a special needs trust to be excluded as income for determining eligibility for Lifeline, the trust shall include the following provisions:

1. The trust shall specifically state that the trust is for the sole benefit of the trust beneficiary;
2. The trust shall specifically state that its purpose is to permit the use of trust assets to supplement, and not to supplant, impair or diminish, any benefits or assistance of any Federal, State or other governmental entity for which the beneficiary may otherwise be eligible or which the beneficiary may be receiving;
3. The trust shall specifically state the age of the trust beneficiary, that the trust beneficiary is disabled within the definition of 42 U.S.C. § 1382c(a)(3), and whether the trust beneficiary is competent at the time the trust is established;
4. The trust shall specifically identify, in an attached schedule, the source of the initial trust property and all assets of the trust;
5. If the trust makes provisions which are intended to limit invasion by creditors or to insulate the trust from liens or encumbrances, the trust shall state that such provisions are not intended to limit the State's right to reimbursement or to recoup incorrectly paid benefits;
6. The special needs trust shall state that it is established by a parent, grandparent, or legal guardian of the trust beneficiary or by a court;
7. The trust shall specifically state that it is irrevocable. Neither the grantor, the trustee(s), nor the beneficiary shall have any right or power, whether alone or in conjunction with others, in whatever capacity, to alter, amend, revoke, or terminate the trust or any of its terms or to designate the persons who shall possess or enjoy the trust estate during his or her lifetime;
8. The trustee shall be specifically identified by name and address. The trust shall state that the original trust beneficiary cannot be the trustee. The trust shall make

provisions for naming a successor trustee in the event that any trustee is unable or unwilling to serve;

9. The trust shall specifically state that the trustee shall fully comply with all State laws, including the Prudent Investor Act, N.J.S.A. 3B:20-11.1 et seq. The trust shall provide that the trustee cannot take any actions not authorized by, or without regard to, State laws. If the trust gives the trustee authorization or power not provided for in the Prudent Investor Act, an accompanying letter shall provide an explanation for each such authorization or power;

10. The trust shall specifically state that the trustee shall be compensated only as provided by law (N.J.S.A. 3B:18-2 et seq.). If the trust identifies a guardian, the trust shall specifically identify him or her by name. A guardian shall be compensated only as provided by law;

11. The trust shall specify that a formal or informal accounting of all expenditures made by the trust shall be submitted to the appropriate eligibility determination agency on an annual basis;

12. The State shall be given advance notice of any expenditure in excess of \$5,000, and of any amount which would substantially deplete the principal of the trust. Notice shall be given to the Office of Support Services for the Aged, Division of Senior Benefits and Utilization Management, PO Box 715, Trenton, NJ 08625-0715, or any successor agency, 45 days prior to the expenditures; and

13. New Jersey rules and laws do not permit a trust to create a will for an incompetent or a minor. The money creating the trust, any additions and/or interest accumulated, cannot be left to other parties, but shall pass by intestacy. The trust shall not create other trusts within it.

(e) Upon request by the Department, the applicant must be able to document the amounts reported on the eligibility application, and will be required to submit photocopies of his or her Federal, State and/or city income tax return and other acceptable evidence.

(f) Lifeline Credit/Tenants Lifeline Assistance eligibility is conferred based upon annual income for the current calendar year, which is estimated at the time of application. Previous year income information is used as a gauge and supplements estimates of current income to determine current eligibility. However, if previous income exceeds the standard, but current year income is expected to fall within legal limits, an initial applicant may estimate current year income for the purpose of establishing Lifeline eligibility.

(g) Since Lifeline eligibility is based upon actual annual income, if the actual annual income for the current calendar year exceeds the Lifeline income standard, the person will become ineligible for the entire calendar year.

(h) The Lifeline Program shall take necessary action to recover the full amount of payments made on behalf of beneficiaries during an ineligible period, when appropriate.

(i) Lifeline beneficiaries are required to notify the Lifeline Program immediately if their current year income exceeds the established income standard.

(j) Since January 1, 1996 and annually thereafter, the income eligibility limits shall increase by the amount of the maximum Social Security benefit cost-of-living adjustment for that year for single and married persons respectively, in accordance with 42 U.S.C. § 415(i)(2)(D), incorporated herein by reference. The Commissioner shall publish the new income limits annually in the New Jersey Register.

#### 8:83A-4.3 Residency requirement

(a) The term resident shall be interpreted to mean a person having his customary place of abode in New Jersey. (See N.J.A.C. 8:83A-1.3, Definitions.)

(b) The applicant must be able to substantiate residence upon request by the Department, and is required to submit copies of two documents showing evidence of current residence at the time of application. The following are examples of proof of residence:

1. Motor vehicle records (for example, valid driver's license);
2. Landlord's records and rent receipts;
3. Public utility records and receipts (for example, electric bill);
4. Personal property assessment records;
5. Records of professional people or businesses (for example, doctors, department stores, etc.);
6. Post office records;
7. Records of social agencies, public or private; and
8. Employment records.

(c) Determination as to continued New Jersey residence of a person absent from this State shall be based upon contact with the applicant by a representative of the Department.

(d) In determining the continued New Jersey residence of an absentee, the issue is whether the individual intends to return to New Jersey or remain indefinitely in the other jurisdiction. If a Lifetime beneficiary leaves New Jersey with the intent to establish a principal residence elsewhere, the beneficiary becomes ineligible for benefits and must immediately notify the Lifeline Program of the change of address.

#### 8:83A-4.4 Age

(a) The Lifeline applicant who is 65 years of age or older must be able to document his or her age upon request of the Department. The applicant must submit a copy of one of the following acceptable proofs of age:

1. Birth certificate;
2. Baptismal certificate;
3. Bris certificate;
4. Social Security form number 2458 (can be obtained from the local Social Security office);
5. Railroad Retirement letter (can be obtained from the Railroad Retirement Board); or
6. Third Party Query Form (can be obtained from the local Social Security office).

(b) If the applicant cannot supply a copy of one of the proofs of age listed in (a)1 through 6 above, the applicant must submit copies of any two of the following acceptable proofs of age:

1. Insurance policy;
2. Driver's license;
3. School record;
4. State or Federal census record;
5. Bible or other family record;
6. Church record of Baptism (age five or after);
7. Confirmation certificate;
8. Marriage record;
9. Employment record;
10. Union record;
11. Military record;
12. Voting record;
13. Delayed birth certificate;
14. Applicant's child's birth certificate;
15. Physician's or midwife's record of applicant's birth;
16. Immigration record;
17. Naturalization record;
18. Passport.

#### 8:83A-4.5 Citizenship

The Lifeline applicant is not required to be a citizen of the United States in order to be eligible for the Lifeline Credit Program/Tenants Lifeline Assistance Program.

**8:83A-4.6 Disability**

(a) The Lifeline applicant who is under 65 years of age and over age 18 and receiving Social Security Title II disability benefits must be able to document his or her Social Security disability determination upon request of the Department. The applicant must submit a copy of one of the following documents:

1. Social Security Award Certification (SSA-L30) issued by the Social Security Administration within the last six months of application; or
2. Report of Confidential Social Security Beneficiary Information (SSA-2458).

**8:83A-4.7 Utility information**

(a) A residential utility customer shall submit documentation of his or her utility account(s) to the Department before a Lifeline Credit will be applied to his or her account.

1. A residential utility customer shall submit a copy of his or her most recent electric and/or gas bill or statement. The utility statement must be made out in the applicant's or spouse's name.

(b) When an applicant is a tenant and the utility costs are included in the monthly rental, the applicant shall submit the name and address of his or her landlord.

**8:83A-4.8 Lifeline eligibility applications**

(a) The Department shall mail a Lifeline application (LL-1) to all Medical Assistance to the Aged, Medicaid Only beneficiaries and New Jersey Care Special Medicaid Program beneficiaries, except for those residing in nursing facilities, that are eligible each year. There shall be only one application for those beneficiaries who apply for both PAAD and Lifeline (Form AP-2).

(b) When an individual meets the residency, income, age, or disability requirements of the PAAD program and is not an SSI beneficiary and wishes to apply for Lifeline Only, the individual shall complete the required application and return it to the Lifeline Program.

(c) For those Lifeline beneficiaries who met the qualifications for Lifeline Only in the previous year and received benefits, a preprinted form will be sent to them. This form obviates the need for an applicant to again prove residency and/or age.

(d) When the Lifeline Program receives the completed application form, either the LL-1 or the combined application form, the Lifeline Program will determine whether the beneficiary is eligible for the Lifeline Credit or Tenants Lifeline Assistance and authorize credit/payment accordingly.

**8:83A-4.9 Social Security Account Number**

(a) Each applicant for the Lifeline benefit must include his or her Social Security Account Number (SSAN) on the application form. The SSAN, a unique and verifiable number, is utilized to differentiate between persons with the same name. Married persons must also indicate the SSAN of their spouse.

(b) In the event that the applicant does not have a SSAN, a unique identifying number will be assigned by the Department. This number will be used to uniquely identify the Lifeline beneficiary.

**8:83A-4.10 Certification**

The applicant for Lifeline benefits must certify that all answers to the questions and items on the application form either the LL-1 or the combined application form, are true and accurate to the best of his or her knowledge. This certification shall be dated, signed (or marked) by the applicant and spouse (if married), and the preparer of the form (if other than the applicant), before the application can be processed.

**8:83A-4.11 Authorization**

(a) By signing/marketing the certification and authorization statement on the application form, the applicant authorizes:

1. The Department to verify any information on the form by contacting the Social Security Administration, the Internal Revenue Service, the New Jersey Division of Taxation, employers and others as the need arises; and
2. Visitation and review by representatives of the Department.

**8:83A-4.12 Eligibility period**

A Lifeline Credit shall be applied to the account(s) of a residential utility customer and remain on the account until it is used or the account is terminated. (See N.J.A.C. 8:83A-1.4.)

**8:83A-4.13 Appeal process**

(a) When the Lifeline Program determines that an applicant is ineligible for benefits, the applicant has the right to appeal the decision by submitting a written request for a fair hearing to the Lifeline Credit Program, Department of Health and Senior Services, PO Box 722, Trenton, NJ 08625-0722, within 30 calendar days from the date of mailing of the notice of ineligibility. The document must clearly state the valid basis for such a request.

(b) The Lifeline Program will forward the hearing request to the Office of Administrative Law which will schedule the hearing and notify all parties of the date, time and location, pursuant to the New Jersey Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

(c) The petitioner will have the burden of demonstrating that the Lifeline Program's determination deviates from the requirements and standards of the regulations and statute.

(d) When the petitioner requests a fair hearing, they shall clearly indicate the existence of a disputed question of fact or law arising from the requirements and standards of the rules and statutes of the Lifeline Program. If the petitioner fails to establish a contested case, the Lifeline Program shall deny the hearing request. Hearings are not intended to be informational or to provide a forum for the expression of public sentiment on Lifeline Program actions or policies.

## SUBCHAPTER 5. RECOVERIES

### 8:83A-5.1 Benefits incorrectly paid

(a) The Department shall take all necessary action to recover the Tenants Lifeline Assistance payments incorrectly or illegally made or the Lifeline Credit incorrectly or illegally applied, on behalf of an electric and/or gas utility customer, from the residential utility customer and any party or parties whose action or inaction resulted in the incorrect payment or from their respective estates, as the case may be. The action shall include, but is not limited to:

1. Requesting the Attorney General to commence civil actions;
2. Reducing subsequent Lifeline benefits to which the beneficiary may be entitled;
3. Reducing New Jersey State income tax refunds to which the beneficiary may be entitled; and/or
4. Reducing New Jersey Homestead Rebates to which the beneficiary may be entitled.

(b) The term "incorrect credit" includes, but is not limited to, credit given to an electric and/or gas residential utility customer who is no longer eligible, or has been incorrectly determined to be eligible to receive credit.

(c) The term "illegal credit" includes, but is not limited to, credits made as a result of any false statement or representation by the applicant, or by the deliberate concealment of a material fact by the applicant.

(d) The term "incorrect payment" includes, but is not limited to, payments made to a beneficiary who is no longer eligible, or who has been incorrectly determined to be eligible to receive payment.

(e) The term "illegal payment" includes, but is not limited to, payments made as a result of any false statement or representation by the applicant, or by the deliberate concealment of a material fact by the applicant.

(f) For the purposes of carrying out the provisions of this section, no public utility, as defined herein, shall be held liable for any Lifeline Credit either improperly or illegally obtained by a Lifeline beneficiary, once that Lifeline beneficiary has been identified by the appropriate State instrumentality and made known to the utility as an eligible Lifeline beneficiary.

1. When a public utility becomes aware that a Lifeline Credit has been improperly credited to the account of an ineligible customer or that an eligible residential utility customer has been credited in an amount in excess of the statutory limit, the utility shall immediately advise the Department. The Department will investigate the incident and advise the public utility of the appropriate action to take.

(g) All applicants and beneficiaries shall have the right to a hearing, through the Office of Administrative Law, to contest denials, eligibility determinations or recoveries.