

household's total gross monthly income. Cents shall be rounded to the nearest dollar. If the monthly gross income does not exceed the income standard (see (a) above) for the household size, the household is income eligible for Home Energy Assistance.

1. In any household declaring zero income, the head of household shall be required to file a declaration of zero income. This information is to be maintained in the case record.

2. In any household reporting less than \$100.00 in monthly income, the head of household shall be required to document how the household has been supporting itself. Such documentation may include, but is not limited to, checking or savings accounts statements documenting withdrawals, recent prior pay stubs or unemployment, welfare, disability, SSI, or social security benefits statements. In addition, a copy of a recent application for unemployment, social security, welfare, SSI or disability benefits may be accepted. If the household has been supporting itself by other means, such documentation as appropriate to the source of income, shall be accepted.

i. Any household reporting less than \$100.00 in monthly income, in two consecutive years, the head of household shall be required to document how the household has supported itself for the past year as referenced in (d)2 above.

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

4. Tax dependent college students who are absent from the household solely because of college attendance must be included in the household size for the determination of eligibility.

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

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

i. The only exception to (f)4 above will occur if the roomer-boarder is a spouse, parent, grandparent, child, brother or sister of a household member. In such instances, the roomer-boarder shall be included in the household size and his or her gross monthly income considered as part of the household's income in determination of eligibility.

7. If a household member receives Social Security benefits and/or SSI the CAA or other non-profit agency must determine the countable income as follows:

i. For individuals receiving Social Security benefits the net amount of the monthly check is countable. If the household presents an award letter rather than a check as evidence of income, the CAA or other non-profit agency must determine if the individual pays a Medicare Part B premium and deduct that amount from the gross amount of the benefit. The resulting balance shall be considered as income to the household.

ii. For individuals receiving SSI the CAA or other non-profit agency shall deduct the supplemental payment amount from the Tenants Lifeline Credit program which is included in the SSI check. The balance shall be considered as income to the household.

8. Households placed in rental assistance slots utilizing temporary emergency funding made available through the State's emergency assistance initiatives will not be excluded from eligibility for Home Energy Assistance as a tenant whose heat is included in rent.

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

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

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

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

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

Gross income limits increased.

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

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

Substantially amended.

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

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

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

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

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

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

Monthly Gross Income Limits raised.

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

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

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

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

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

Monthly allowable gross income limit raised.

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

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

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

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

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

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

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

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

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

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

Increased Gross Income Eligibility Limits for Home Energy Assistance.

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

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

Increased Gross Income Eligibility Limits for Home Energy Assistance.

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

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

In (g), increased Gross Income Limits.

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

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

In (g), increased Gross Income limits.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Rewrote (g).

Public Notice: Home Energy Assistance income eligibility and benefits.

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

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

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

Added (h).

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

Deleted (h).

Public Notice: Home Energy Assistance income eligibility and benefits.

See: 33 N.J.R. 1479(c).

Public Notice: Home Energy Assistance income eligibility and benefits.

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

Public Notice: Home Energy Assistance income eligibility and benefits.

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

Public Notice: Home Energy Assistance Program.

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

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

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

Rewrote the section.

Public Notice: Home Energy Assistance Program.

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

Public Notice: Home Energy Assistance Program.

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

### Case Notes

Initial Decision (2007 N.J. AGEN LEXIS 11) adopted, which concluded applicant was ineligible for home heating assistance because loans from the applicant's parents and charity care, used for household expenses, constituted unearned income under former N.J.A.C. 10:89-2.3 (now N.J.A.C. 5:49-2.3) and exceeded the allowable gross monthly limit for a household of one. *Kelsey v. Div. of Housing & Community Resources*, OAL Dkt. No. CAF 05289-03, 2007 N.J. AGEN LEXIS 341, Final Decision (February 6, 2007).

## SUBCHAPTER 3. PROGRAM BENEFITS

### 5:49-3.1 Automatic payments to certain households— DFD

#### (a) Recipient households:

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

i. Automatic payments will only be made during the heating season. Entitlements will be paid in one installment. Households which do not receive automatic payments must submit an application to receive HEA.

ii. The entitlement will be paid as a full benefit to all households.

2. Eligible households which heat by electricity or natural gas will receive the automatic payment(s) in the form

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section was "Payment schedule—DFD/DCA".

Public Notice: Home Energy Assistance income eligibility and benefits.

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

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

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

Added (g).

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

Deleted (g).

Public Notice: Home Energy Assistance income eligibility and benefits.

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

Public Notice: Home Energy Assistance income eligibility and benefits.

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

Public Notice: Home Energy Assistance Program.

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

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

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

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

Public Notice: Home Energy Assistance Program.

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

Public Notice: Home Energy Assistance Program.

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

1. For purposes of this program, the applicant shall be the adult household member who is billed for payment of heating/cooling costs or responsible for payment of the rent.

i. In the event that the applicant, due to illness or injury is unable to complete the application, the CAA or other non-profit agency shall accept the application from an authorized representative who is sufficiently familiar with the household's circumstances.

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

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

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

2. The CAA or other non-profit agency shall provide home visits to accept applications from those households which are not eligible to apply by mail but cannot apply in person at the CAA or other non-profit agency (e.g., the applicant is ill, bedridden, or for whom access to the CAA or other non-profit agency is difficult).

3. The CAA or other non-profit agency shall document the date of application recording on the application the date it was received by the CAA or other non-profit agency. The period for determination of program eligibility or ineligibility and notification of the household of the determination is calculated from the date the application is filed.

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

5. The household must cooperate with the CAA or other non-profit agency in the eligibility determination process. If the household refuses to cooperate in this process, the application shall be denied.

(d) At the time of application, the CAA or other non-profit agency shall advise the household of all program eligibility requirements and the method by which assistance will be provided. Additionally, the CAA or other non-profit agency shall assist the household in completing the application and explain what elements of eligibility must be verified. The CAA or other non-profit agency must advise the household

## SUBCHAPTER 4. APPLICATION PROCESS

### 5:49-4.1 Opportunity and decision to apply— DCA/CAA

(a) Any individual(s) who believes he or she or his or her household is eligible for HEA must be given the opportunity to apply without delay. Heating and cooling assistance applications shall be accepted from November 1 through March 31 of each year. Applicants will be informed about eligibility requirements and their rights and obligations in applying for and receiving assistance. The decision to apply rests with the applicant. The applicant has the right to withdraw the application before eligibility or ineligibility has been determined. Upon completion of the application process, the application shall be transmitted to the Office of Information Technology (OIT) in accordance with (e) below.

what verification is required and explain that the case will be denied if verification is not provided.

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

i. Name of the applicant and all household members;

ii. Social Security number of the applicant;

(1) Any applicant for HEA-only who has not been assigned a Social Security number must be referred to the local Social Security Administration district office to apply for same, and must submit verification of such application to the CAA or other non-profit agency;

iii. Address;

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

v. A rent receipt, cancelled check made out to the landlord, or lease if heat/utilities are included in the rent (the CAA or other non-profit agency may, with the consent of the household, contact the landlord for verification);

vi. If the household is directly responsible for heating/cooling costs but the bill is not in the household's name, a statement from the landlord attesting to that fact;

vii. Earned and unearned income shall be verified by wage stubs or any applicable documentation relating to any consecutive four-week period within the five weeks before the date the client signs the application or reports a change in earnings;

viii. Other income including pensions, outside contributions, interest, dividends, UIB, disability, and support payments;

ix. Proof of tax dependency status for household consisting entirely of students (i.e., a copy of the most recent tax return of the student's parents); and

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

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

i. Composition of the household;

ii. Gross monthly income and total monthly household expenditures;

iii. Home ownership; and

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

(e) The CAA or other non-profit agency shall transmit application data to OIT via computer terminal and retain a copy in the case record.

1. The application shall be screened and certified by the CAA or other non-profit agency prior to data entry to ensure that it is complete and coded correctly.

2. Each CAA or other non-profit agency will receive a listing of its cases which were rejected upon data entry. All cases on this report must be corrected and retransmitted to OIT.

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

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

(g) Generally, applications will be processed through the OIT computer system to a decision. However, the CAA or other non-profit agency will be responsible for screening each HEA application to determine the following:

1. The household's gross monthly income meets the monthly income eligibility standards in N.J.A.C. 5:49-2.3 (a);

2. The household is responsible for payment of its heating/cooling costs in accordance with N.J.A.C. 5:49-2.2(b);

3. The household meets the definition of "resident" provided in N.J.A.C. 5:49-2.2(a)1;

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

(h) If the CAA or other non-profit agency determines, based on the provisions of (g) above, that the household is