

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—DFD/DCA

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

1. The household's application is denied;
2. The household's application is neither approved nor denied within 30 days after application (or 20 days after application for elderly or disabled individuals), unless the delay was caused by the household's lack of cooperation in providing necessary and reasonable evidence;
3. The benefit is less than the household believes it should be; or
4. The benefit will be paid in a lesser amount 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 (Division of Family Development) or DCA's Division of Housing and Community Resources (DH&CR). The results of this administrative review will be conveyed to the household in writing, whereupon the household may either accept the findings of the DFD or DH&CR as the final decision or indicate its desire to proceed with a fair hearing.

(c) The fair hearings process will be in accordance with established 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).

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

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

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

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

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

10:89-1.2 Program funding

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

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

While this chapter attempts to minimize discretionary action on the part of individuals administering Home Energy Assistance, there are situations which are only generally covered by existing policy guidelines. In cases of this nature, the CWA worker or CAA or other non-profit agency worker shall be expected to make a judgment, based on his or her experience and/or knowledge of the program, which can be defended as both reasonable and prudent. Any such circumstances shall be fully documented in the case record. Questionable situations for which the worker cannot make such judgment should be referred to DCA or DHS.

Emergency amendment R.1997 d.149, effective February 25, 1997 (to expire April 26, 1997).
See: 29 N.J.R. 940(a).

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

Adopted concurrent proposal, R.1997 d.207, effective April 25, 1997.
See: 29 N.J.R. 940(a), 29 N.J.R. 2473(a).

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) If the building is a licensed boarding home, Residential Health Care Facility or community recognized boarding facility, each resident may be considered a separate household;

(3) If a business only (roomer-boarder) relationship exists, where one person is paying for living space in the dwelling of another, the roomer-boarder may be considered a separate household. For such relationship to be established, the payments for room and board must be reasonable, considering the total shelter and heating cost for the person supplying the room and board. Further, the relationship must be one which would immediately terminate if the payment between the parties ceased (see N.J.A.C. 10:89-2.3(f)4 for limitations).

2. 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).