

## CHAPTER 89

## HOME ENERGY ASSISTANCE HANDBOOK

## Authority

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

## Source and Effective Date

R.1999 d.446, effective November 29, 1999.  
See: 31 N.J.R. 2844(a), 31 N.J.R. 4267(a).

## Executive Order No. 66(1978) Expiration Date

Chapter 89, Home Energy Assistance Handbook, expires on November 29, 2004.

## Chapter Historical Note

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

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

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

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

Pursuant to Executive Order No. 66(1978), Chapter 89, Home Energy Assistance Handbook, was readopted as R.1999 d.446, effective November 29, 1999. See: Source and Effective Date.

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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.)

(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—DCA

(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 responsi-

bility for payment of its heating costs. Energy costs included in rent which is subsidized do not qualify as out-of-pocket payments for heating costs;

2. Persons receiving a rent subsidy which includes all heating costs. Energy costs included in rent which is subsidized do not qualify as out-of-pocket payments for heating costs;

3. Persons for whom nonhousehold members pay for the costs of heating/cooling fuel;

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

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

(c) Earned income 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 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.

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:

Household Size	Monthly Allowable Gross Income Limits
1	\$1,006
2	1,356
3	1,706

Household Size	Monthly Allowable Gross Income Limits
4	2,056
5	2,406
6	2,756
7	3,106
8	3,456
9	3,806
10	4,156
Each Additional Member	+ 350

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).

### SUBCHAPTER 3. PROGRAM BENEFITS

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

##### (a) Recipient households:

1. Certain households eligible for and receiving 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 direct transfer to the utility when a valid utility account number exists on the HEA Masterfile. Households which heat by oil, coal, wood, propane, and kerosene or do not have a valid account number on the HEA Masterfile will receive the automatic payment(s) in the form of a two-party check payable to the head of household and the generic copayee "Your Heating Supplier."

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.

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

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

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

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

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

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

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

Rewrote (a)2.

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

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

### 10:89-3.2 Special energy assistance—DCA/CAA

(a) Upon application at the CAA or other non-profit agency, or outreach site, eligible households which have not received or will not receive automatic benefits in accordance with N.J.A.C. 10:89-3.1, shall receive 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 for payment of heating costs will receive the special energy benefit in the form of a direct transfer to the utility. The benefit will be transferred directly to the client's utility company with the client receiving notification. A household directly responsible to other participating fuel suppliers will receive the benefit in the form of a two party check. The check will be payable to the head of household and the name of the fuel supplier.

5. A household directly responsible for payment of heating costs to any non-participating fuel supplier will receive the 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 CAA or other non-profit agency must advise applicants of the legal implications of using that form of heater and provide them with information regarding any available programs which may assist them in the establishment of an alternate heating source.

i. In any situation in which the applicant is uncooperative in securing a new heating source, the CAA or other non-profit agency must document in the case record that the applicant was advised of the illegality of the use of kerosene heaters and was counseled regard-

ing existing alternatives. Home energy assistance payments shall not be authorized to supplement illegal heating sources.

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

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

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

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

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

Reference to Schedule C changed to Schedule B.

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

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

Substantially amended.

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

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

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

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

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

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

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

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

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

Added (f)6.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

In (f), rewrote 4.

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

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

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

(a) Income eligible households for which there is medical evidence that the health of at least one household member will be seriously endangered unless the household's living quarters are cooled, shall receive a one-time benefit in the amount of \$100.00 subject to the following provisions. This benefit is available in addition to any other benefit made under this program and will be paid directly to the household.

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

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

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

- i. Households residing in publicly operated housing or receiving a rent subsidy which includes all cooling costs. Energy costs included in rent which is subsidized do not apply as out-of-pocket for cooling costs;
- ii. Households for whom nonhousehold members pay for the cooling fuel;
- iii. Residents of any licensed medical facility (hospital, skilled nursing facility or intermediate care facility) or publicly operated community residence and residents of centers for treatment of drug and/or alcohol abuse;
- iv. Households consisting entirely of students who are tax dependents of another household.

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

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

(a)3v deleted.

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

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

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

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

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

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

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

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

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

(a)3i deleted "all".

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

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

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

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

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

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

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

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

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

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

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

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

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

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

In (a)1, deleted provision directing questionable evidence to the Division of Family Development, Bureau of Medical Affairs.

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

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

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

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

Added (a)4.

R.1999 d.303 expired October 9, 1999. Deleted (a)4.

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

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

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

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

3. The amount of any emergency assistance payment shall be the lowest amount charged for the service performed by the household's energy supplier or for the purchase of fuel, but shall not exceed \$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 CAA or other non-profit agency shall evaluate the request for emergency assistance with the understanding that any benefits previously provided to the client under this section or N.J.A.C. 10:89-3.1, "Automatic payments to certain households—DFD" and N.J.A.C. 10:89-3.2, "Special energy assistance—DCA/CAA" were intended to defray the cost of home heating fuel for the current heating season or to defray heating costs which are included in a monthly rental charge.

5. The CAA or other non-profit agency shall, no later than 48 hours after a household or its representative signs the declaration of energy emergency, provide some form of assistance that will resolve the energy crisis if such household is eligible to receive such benefits.

6. The CAA or other non-profit agency shall also, not later than 18 hours after a household or its representative signs the declaration of energy emergency, provide some form of assistance that will resolve the crisis if such household is eligible to receive such benefits and is in a life-threatening situation.

7. All emergency energy assistance is subject to the availability of funds.

Added (a)9.  
 Emergency amendment R.1998 d.469, effective August 14, 1998 (expired October 13, 1998).  
 See: 30 N.J.R. 3333(a).  
 Added (a)9.  
 Emergency amendment R.1999 d.303, effective August 10, 1999 (to expire October 9, 1999).  
 See: 31 N.J.R. 2648(a).  
 In (a), added 9.  
 R.1999 d.303 expired October 9, 1999. Deleted (a)9.

**10:89-3.5 Maximum program benefit**

(a) An eligible household may receive a maximum of \$900.00 in program benefits to include automatic or special payments plus any emergency assistance payments exclusive of emergency rehousing permits and emergency furnace repair payments. A household which receives more than the maximum program benefit is subject to recoupment procedures in accordance with N.J.A.C. 10:89-5.3.

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

As amended, R.1982 d.497, effective December 30, 1982.  
 See: 14 N.J.R. 1311(a), 15 N.J.R. 92(c).  
 Originally filed as an emergency adoption (R.1982 d.412) on November 1, 1982. Readopted as R.1982 d.497. Maximum benefit level changed from \$750.00 to \$900.00.  
 Emergency amendment, R.1984 d.538, effective and operative November 1, 1984 (expires December 31, 1984).  
 See: 16 N.J.R. 3217(a).  
 (b) added.  
 Adoption of concurrent proposal, R.1985 d.5, effective January 2, 1985.  
 See: 16 N.J.R. 3217(a), 17 N.J.R. 310(a).  
 Provisions of emergency amendment R.1984 d.538 readopted without change.  
 Amended by R.1988 d.422, effective September 6, 1988.  
 See: 20 N.J.R. 1060(a), 20 N.J.R. 2293(a).  
 Deleted \$900.00 and substituted "the maximum program benefit".  
 Emergency Amendment, R.1992 d.38, effective December 26, 1991 (expires February 24, 1992).  
 See: 24 N.J.R. 300(b).  
 In (a), maximum program benefits changed from \$900.00 to \$750.00.  
 Adopted concurrent proposal, R.1992 d.125, effective February 21, 1992.  
 See: 24 N.J.R. 300(b), 24 N.J.R. 952(b).  
 Provisions of emergency amendment R.1992 d.38 readopted without change.  
 Emergency amendment R.1998 d.82, effective January 9, 1998 (to expire March 10, 1998).  
 See: 30 N.J.R. 568(a).  
 In (a), increased the maximum receivable program benefits.  
 Adopted concurrent proposal, R.1998 d.168, effective March 10, 1998.  
 See: 30 N.J.R. 568(a), 30 N.J.R. 1285(a).

**10:89-3.6 Payment schedule—DFD/DCA**

(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	\$315	\$275	\$422	\$366	\$505	\$440
\$ 668.00-\$1,084.00	265	230	351	306	422	366
\$1,085.00-\$1,501.00	211	181	281	244	338	293
\$1,502.00-\$1,918.00			209	181	253	219
\$1,919.00-\$2,335.00			138	121	168	146

Over \$2,335.00 68 56 84 72  
 "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	\$298	\$259	\$398	\$347	\$476	\$414
\$ 668.00-\$1,084.00	246	216	330	290	398	347
\$1,085.00-\$1,501.00	197	173	265	232	319	277
\$1,502.00-\$1,918.00			197	173	238	207
\$1,919.00-\$2,335.00			132	114	159	137
Over \$2,335.00			66	49	78	68

"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	\$195	\$170	\$261	\$225	\$313	\$274
\$ 668.00-\$1,084.00	161	141	216	189	261	225
\$1,085.00-\$1,501.00	131	114	173	150	207	180
\$1,502.00-\$1,918.00			130	113	156	135
\$1,919.00-\$2,335.00			86	75	105	90
Over \$2,335.00			43	32	50	44

"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).

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).

## SUBCHAPTER 4. APPLICATION PROCESS

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

(a) Any individual(s) who believes he or she or his or her household is eligible for HEA must be given the opportunity to apply without delay. Heating and cooling assistance applications shall be accepted from November 1 through February 28 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 DCA in accordance with (e) below.

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

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

(b) Food Stamp households which 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 separate Form EP-1, 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. Other households may apply by mail at the discretion of the CAA or other non-profit agency.

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.