

CHAPTER 49

HOME ENERGY ASSISTANCE HANDBOOK

Authority

N.J.S.A. 30:1-12.

Source and Effective Date

R.2005 d.130, effective March 28, 2005.
See: 37 N.J.R. 18(a), 37 N.J.R. 1518(b).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 49, Home Energy Assistance Handbook, expires on September 4, 2010. See: 41 N.J.R. 3483(a).

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 Emergency 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: 31 N.J.R. 2844(a), 31 N.J.R. 4267(a).

Chapter 89, Home Emergency Assistance Handbook, was readopted as R.2005 d.130, effective March 28, 2005. See: Source and Effective Date. See, also, section annotations.

Chapter 89 of Title 10, Home Energy Assistance Handbook, was reclassified as Chapter 49 of Title 5, effective June 26, 2008 as a notice of administrative change, pursuant to gubernatorial notice. See: 40 N.J.R. 4316(a).

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SUBCHAPTER 1. GENERAL PROVISIONS

5:49-1.1 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 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 the Department of Community Affairs' (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 Work First New Jersey (WFNJ) program fair hearings procedures contained in N.J.A.C. 10:90-9.

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).

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.

5:49-1.2 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.

5:49-1.3 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 County Welfare Agency (CWA) worker or community action agency (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 circumstance shall be fully documented in the case record. Questionable situations for which the worker cannot make such judgment should be referred to DCA or Department of Human Services (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).

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

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

In the second sentence, substituted "County Welfare Agency (CWA) worker or community action agency (CAA)" for "the CWA worker or CAA" following "In cases of this nature,"; inserted "Department of Human Services" preceding "(DHS)" in the last sentence.

5:49-1.4 Confidentiality

The CWA/CAA shall restrict the use or disclosure of information obtained from applicant or recipient households to persons directly connected with the administration of the Low Income Home Energy Assistance Program (LIHEAP) and other governmental related programs. Additionally, data shared with fuel suppliers is confidential and is only for purposes directly connected with the administration of public assistance and the determination of eligibility for Universal Service Fund (USF) and other energy assistance programs.

New Rule, R.2005 d.130, effective May 2, 2005.

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

SUBCHAPTER 2. PROGRAM ELIGIBILITY

5:49-2.1 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. 5:49-4 (Application Process) or be entitled to automatic payments in accordance with N.J.A.C. 5:49-3.1. 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).

5:49-2.2 Eligibility requirements

(a) The household members shall be residents of New Jersey.

1. 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. 5:49-2.3(f)4 for limitations).