

(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 responsibility 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) On an annual basis, the Department shall revise the income guidelines based on the current Federal Poverty Level which are published annually in the Federal Register by the United States Department of Health and Human Services (USDHHS). The Department will use 150 percent of the current Federal Poverty Level as the maximum gross income amount for LIHEAP eligibility. Annually, the Department of Human Services shall, through a public notice published in the New Jersey Register, provide the maximum gross income dollar amounts for LIHEAP eligibility by household size.

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).

### 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, reapplica-

tion 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 or other acceptable match criteria exists on the Food Stamp extract. Match criteria shall be collected during the Food Stamp eligibility determination or redetermination process. Households which heat by oil, coal, wood, propane, and kerosene or do not have a valid account number or other acceptable match criteria 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).

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

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

Rewrote (a)2.

### 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.