

Notice of Emergency Adoption

Temporary and Disability Assistance, Office of

(SUBMITTING AGENCY)

Approval has been granted by Executive Chamber to file this rule making.

This rule making does not require Executive Chamber approval.

This adoption will amend the NYCRR.

This adoption will not amend the NYCRR.

NOTE: Typing and submission instructions are at the end of this form. Please be sure to COMPLETE ALL ITEMS. Incomplete forms and nonscannable text attachments will be cause for rejection of this notice. change in text

1. Action taken:

Amendment of § 387.12(f)(3)(v)(a)-(c) of Title 18 NYCRR

2. Effective date of emergency rule:

Date of filing.

Other date (specify): 12/09/2024

3. History of emergency actions (check only one box):

This is the first time this emergency rule has been adopted (first emergency, effective for 90 days). No public comment required.

This is the first re-adoption of an emergency rule (second emergency, effective for 60 days). No public comment required, and a Notice of Proposed rule making has been submitted, I.D. No. TDA-39-24-00005 - EP, issue date: 09/25/2024.

This is the second (or greater) re-adoption of an emergency rule (third emergency or greater, effective for 60 days). Public comment is required, see Item 18.

4. Statutory authority under which the rule was adopted:

Social Services Law §§ 17(a)-(b), and (k), 20(3)(d) and 95; 7 United States Code § 2014 (e)(6)(C); 7 Code of Federal Regulations § 273.9 (d)(6)(iii)

5. This emergency rule is necessary for the preservation of:

public health

public safety

general welfare

6. The specific reasons underlying the finding of necessity, above, are as follows:

7. Subject of the rule:

Standard Utility Allowances (SUAs) for the Supplemental Nutrition Assistance Program (SNAP)

8. Purpose of the rule:

These regulatory amendments set forth the federally-approved SUAs as of 10/1/2024.

9. *Terms of rule* (SELECT A, B or C. Item D is required.)

- A. The full text of the rule is attached because it does not exceed 2,000 words.
- B. A summary of the rule is attached because the full text of the rule exceeds 2,000 words.
- Full text is posted on the following State website. [Pursuant to SAPA §202(7)(d), provide sufficient information to enable the public to access the full text without extensive searching. For example, provide a URL or a title to either a webpage or a specific section of the website where the full text is posted]:
- Pursuant to SAPA §202(7)(b), the agency elects to print a description of the subject, purpose and substance of the rule as defined in SAPA §102(2)(a)(ii) [Rate Making]. Web posting of full text of such rule is not required [SAPA §202(1)(a)].
- D. Signed certification of adoption and full text of the rule are attached:
- Signed certification of adoption (scanned pdf).
- Full text of the rule (MS Word).

10. *Type of notice:*

- This notice is intended to serve only as an emergency adoption, to be valid for 90 days or less.
- This notice is intended to serve only as a notice of emergency adoption; however, the agency intends to adopt the provisions of this emergency as a permanent rule, having submitted to the Department of State a notice of emergency/proposed or proposed rule making I.D. No. TDA-39-24-00005 - EP, Issue of: 09/25/2024.
- This notice is intended to serve only as a notice of emergency adoption; however, the agency intends to submit a notice of proposed rule making in the future.
- The agency adopted the provisions of this emergency rule as a permanent rule, pursuant to SAPA section 202(6)(c), because the purposes of the emergency measure would be frustrated if subsequent notice procedures were required.

11. *Emergency expiration date* (A first emergency rule is effective and enforceable for up to 90 days from the **date of filing**. Second and subsequent emergency rules are effective and enforceable for up to 60 days from their **date of filing** UNLESS the agency specifies an earlier date). This rule expires:

- 90 days after filing
- 60 days after filing
- Other (*specify date*): _____
- **A notice of proposed rule making must be published to adopt this rule permanently and before a first emergency rule can be readopted.**

12. *The text of the final rule and any required statements and analyses may be obtained from:*

Agency contact Thomas Makely

Agency name New York State Office of Temporary and Disability Assistance

Office address 40 North Pearl Street, Floor 16C
Albany, NY 12243-0001

Telephone (518) 402-3966 *E-mail* thomas.makely@otda.ny.gov

13. *Additional matter required by statute:*

- YES (include below material required by statute).

- No additional material required by statute.

14. Regulatory Impact Statement (RIS)

(SELECT AND COMPLETE ONE; ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS)

A. The attached RIS contains:

- the full text of the RIS.
 a summary of the RIS.

Full text is posted on the following State website. [Pursuant to SAPA §202(7)(d), provide sufficient information to enable the public to access the full text without extensive searching. For example, provide a URL or a title to either a webpage or a specific section of the website where the full text is posted]:

- a consolidated RIS, because this rule is one of a series of closely related and simultaneously proposed rules or is virtually identical to rules proposed during the same year.

B. An RIS is **not** attached:

- because this rule is subject to a consolidated RIS printed in the *Register* under I.D. No.: _____ - _____; issue date: _____.

- because this rule is exempt, as defined in SAPA §102(2)(a)(ii) [Rate Making].
 but will be published in the *Register* within 30 days of the rule's effective date.

C. A **statement is attached** claiming exemption pursuant to SAPA §202-a (technical amendment).**15. Regulatory Flexibility Analysis (RFA) for small businesses and local governments**

(SELECT AND COMPLETE ONE; ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS)

A. The attached RFA contains:

- the full text of the RFA.
 a summary of the RFA.

Full text is posted on the following State website. [Pursuant to SAPA §202(7)(d), provide sufficient information to enable the public to access the full text without extensive searching. For example, provide a URL or a title to either a webpage or a specific section of the website where the full text is posted]:

- a consolidated RFA, because this rule is one of a series of closely related rules.

B. A **statement is attached** explaining why a RFA is not required. This statement is in scanner format and explains the agency's finding that the rule will not impose any adverse economic impact or reporting, recordkeeping or other compliance requirements on small businesses or local governments and the reason(s) upon which the finding was made, including any measures used to determine that the rule will not impose such adverse economic impacts or compliance requirements.

C. A RFA is **not** attached:

- because this rule is subject to a consolidated RFA printed in the *Register* under I.D. No.: _____ - _____; issue date: _____.

- because this rule is exempt, as defined in SAPA §102(2)(a)(ii) [Rate Making].
 but will be published in the *Register* within 30 days of the rule's effective date.

16. Rural Area Flexibility Analysis (RAFA)

(SELECT AND COMPLETE ONE; ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS)

A. The attached RAFA contains:

 the full text of the RAFA. a summary of the RAFA.

Full text is posted on the following State website. [Pursuant to SAPA §202(7)(d), provide sufficient information to enable the public to access the full text without extensive searching. For example, provide a URL or a title to either a webpage or a specific section of the website where the full text is posted]:

 a consolidated RAFA, because this rule is one of a series of closely related rules.

B. A **statement is attached** explaining why a RAFA is not required. This statement is in scanner format and explains the agency's finding that the rule will not impose any adverse impact on rural areas or reporting, recordkeeping or other compliance requirements on public or private entities in rural areas and the reason(s) upon which the finding was made, including what measures were used to determine that the rule will not impose such adverse impact or compliance requirements.

C. A RAFA is **not** attached: because this rule is subject to a consolidated RAFA printed in the *Register* under I.D. No.: _____ - _____; issue date: _____. because this rule is exempt, as defined in SAPA §102(2)(a)(ii) [Rate Making]. but will be published in the *Register* within 30 days of the rule's effective date.**17. Job Impact Statement (JIS)**

(SELECT AND COMPLETE ONE; ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS)

A. The attached JIS contains:

 the full text of the JIS. a summary of the JIS.

Full text is posted on the following State website. [Pursuant to SAPA §202(7)(d), provide sufficient information to enable the public to access the full text without extensive searching. For example, provide a URL or a title to either a webpage or a specific section of the website where the full text is posted]:

 a consolidated JIS, because this rule is one of a series of closely related rules.

B. A **statement is attached** explaining why a JIS is not required. This statement is in scanner format and explains the agency's finding that the rule will not have a substantial adverse impact on jobs and employment opportunities (as apparent from its nature and purpose) and will have a positive impact or no impact on jobs and employment opportunities; except when it is evident from the subject matter of the rule that it could only have a positive impact or no impact on jobs and employment opportunities, the statement shall include a summary of the information and methodology underlying that determination.

 A JIS/Request for Assistance [SAPA §201-a(2)(c)] is attached.C. A JIS is **not attached** : because this rule is subject to a consolidated JIS printed in the *Register* under I.D. No.: _____ - _____; issue date: _____. because this rule is exempt, as defined in SAPA §102(2)(a)(ii) [Rate Making]. because this rule is submitted by the State Comptroller or Attorney General. but will be published in the *Register* within 30 days of the rule's effective date.**18. Assessment of Public Comment**—required for second or subsequent readoptions (check applicable box). An assessment of public comment is attached (less than 2,000 words). An assessment of public comment is not attached because the rule is within the definition of SAPA §102(2)(a)(ii) [Rate Making]. The agency received no public comment since publication of the last assessment of public comment. The agency received no public comment.

19. **Referenced material** (check one box):

No information is being incorporated by reference in this rule.

This rule contains referenced material in the following Parts, sections, subdivisions or paragraphs:

AGENCY CERTIFICATION (To be completed by the person who PREPARED the notice)

I have reviewed this form and the information submitted with it. The information contained in this notice is correct to the best of my knowledge.

I have reviewed Article 2 of SAPA and Parts 260 through 263 of 19 NYCRR, and I hereby certify that this notice complies with all applicable provisions.

Name Thomas Makely Signature _____

Address N.Y.S. O.T.D.A., 40 North Pearl Street, Floor 16C, Albany, NY 12243-0001

Telephone (518) 402-3966 E-Mail thomas.makely@otda.ny.gov

Date 11/19/2024

Please read before submitting this notice:

1. Except for this form itself, all text must be typed in the prescribed format as described in the Department of State's *Register* procedures manual, *Rule Making in New York*.
2. Rule making notices, with any necessary attachments (in MS Word unless otherwise specified), should be e-filed via the Department of State website.

6. The specific reasons underlying the finding of necessity, above, are as follows:

It is of great importance that the federally-approved standard utility allowances (SUAs) for the Supplemental Nutrition Assistance Program (SNAP) are applied to SNAP benefit calculations effective October 1, 2024, and thereafter until new amounts eventually are approved by the United States Department of Agriculture (USDA). The new federally-approved SUA amounts for heating/cooling, utilities and telephone must be implemented by the October 1, 2024 deadline. The use of SUAs that are not authorized by the USDA could result in severe fiscal sanctions by the federal government against the State. These emergency amendments protect the public health and general welfare by setting forth the federally-approved SUAs effective as of October 1, 2024.

As stated above, there is no federal authority to use past SUAs after the October 1, 2024 effective date of the new federally-approved allowance amounts. For New York to continue the State option to use the SUA in lieu of the actual utility cost portion of SNAP household shelter expenses, new allowances must be in place. Otherwise, the State may be forced to use the actual utility cost portion of the shelter expenses of each SNAP household. This policy would result in all 58 social services districts (districts) in New York State having to require up to 1.7 million SNAP households to provide verification of the actual utility cost portions of their shelter expenses. This policy would create a tremendous burden on both districts as well as recipient households. In addition, as actual utility costs are generally significantly less than the SUAs, SNAP households would have a much smaller shelter deduction resulting in a sizeable reduction in their SNAP benefits. This reduction in SNAP benefits for up to 1.7 million SNAP households would result in significant harm to the health and welfare of these households.

It is noted that the regulatory amendments are being promulgated pursuant to a Notice of Emergency Adoption due to time constraints. To preserve public health and general welfare, OTDA originally promulgated the emergency rule via a Notice of Emergency Adoption and Proposed Rule Making on September 10, 2024, and the emergency rule became effective on October 1, 2024. The Notice of Emergency Adoption and Proposed Rule Making was published in the *New York State Register* on September 25, 2024 under I.D. No. TDA-39-24-00005-EP. OTDA will be accepting public comments on the current emergency rule through November 25, 2024. The current emergency rule expires on December 8, 2024.

This first readoption of the current emergency rule is necessary in order to avoid a lapse in the current emergency rule, insofar as the expiration of the 60-day public comment period will not provide sufficient time for OTDA to publish a Notice of Adoption in the *New York State Register* before the current emergency rule expires on December 8, 2024.

Clauses (a)–(c) of subparagraph (v) of paragraph (3) of subdivision (f) of § 387.12 of Title 18 NYCRR is amended to read as follows:

- (a) The standard allowance for heating/cooling consists of the costs for heating and/or cooling the residence, electricity not used to heat or cool the residence, cooking fuel, sewage, trash collection, water fees, fuel for heating hot water and basic service for one telephone. The standard allowance for heating/cooling is available to households which incur heating and/or cooling costs separate and apart from rent and are billed separately from rent or mortgage on a regular basis for heating and/or cooling their residence, or to households entitled to a Home Energy Assistance Program (HEAP) payment or other Low Income Home Energy Assistance Act (LIHEAA) payment. A household living in public housing or other rental housing which has central utility meters and which charges the household for excess heating or cooling costs only is not entitled to the standard allowance for heating/cooling unless they are entitled to a HEAP or LIHEAA payment. Such a household may claim actual costs which are paid separately. Households which do not qualify for the standard allowance for heating/cooling may be allowed to use the standard allowance for utilities or the standard allowance for telephone. As of October 1, [2023] 2024, but subject to subsequent adjustments as required by the United States Department of Agriculture (USDA), the standard allowance for heating/cooling for SNAP applicant and recipient households residing in New York City is [\$992] \$1,034; for households residing in either Suffolk or Nassau Counties, it is [\$923] \$962; and for households residing in any other county of New York State, it is [\$819] \$854.
- (b) The standard allowance for utilities consists of the costs for electricity not used to heat or cool the residence, cooking fuel, sewage, trash collection, water fees, fuel for heating hot water and basic service for one telephone. It is available to households billed separately from rent or mortgage for one or more of these utilities other than telephone. The standard allowance for utilities is available to households which do not qualify for the standard allowance for heating/cooling. Households which do not qualify for the standard allowance for utilities may be allowed to use the standard allowance for telephone. As of October 1, [2023] 2024, but subject to subsequent adjustments as required by the USDA, the standard allowance for utilities for SNAP applicant and recipient households residing in New York City is [\$391] \$408; for households residing in either Suffolk or Nassau Counties, it is [\$363] \$378; and for households residing in any other county of New York State, it is [\$332] \$346.
- (c) The standard allowance for telephone consists of the cost for basic service for one telephone. The standard allowance for telephone is available to households which do not qualify for the standard allowance for heating/cooling or the standard

allowance for utilities. As of October 1, [2023] 2024, but subject to subsequent adjustments as required by the USDA, the standard allowance for telephone for all SNAP applicant and recipient households residing in New York State is \$31.

Regulatory Impact Statement

1. Statutory authority:

The *United States Code* (U.S.C.), at 7 U.S.C. § 2014(e)(6)(C), provides that in computing shelter expenses for budgeting under the federal Supplemental Nutrition Assistance Program (SNAP), a State agency may use a standard utility allowance (SUA) as provided in federal regulations.

The *Code of Federal Regulations* (C.F.R.), at 7 C.F.R. § 273.9(d)(6)(iii), provides for SUAs in accordance with SNAP. Clause (A) of this subparagraph states that with federal approval from the Food and Nutrition Service (FNS) of the United States Department of Agriculture (USDA), a State agency may develop SUAs to be used in place of actual costs in calculating a household's excess shelter deduction. Federal regulations allow for the following types of SUAs: a SUA for all utilities that includes heating or cooling costs; a limited utility allowance that includes electricity and fuel for purposes other than heating or cooling, water, sewerage, well and septic tank installation and maintenance, telephone, and garbage or trash collection; and an individual standard for each type of utility expense. Clause (B) of the subparagraph provides that a State agency must review the SUAs annually and adjust them to reflect changes in costs. State agencies also must provide the amounts of the SUAs to the FNS when the SUAs are changed and submit the methodologies used in developing and updating the SUAs to the FNS for approval whenever the methodologies are developed or changed.

Social Services Law (SSL) § 17(a)-(b) and (k) provide, in part, that the Commissioner of the Office of Temporary and Disability Assistance (OTDA) shall “exercise such other powers and perform such other duties as may be imposed by law.”

SSL § 20(3)(d) authorizes OTDA to promulgate regulations to carry out its powers and duties.

SSL § 95 authorizes OTDA to administer SNAP in New York State (NYS) and to perform such functions as may be appropriate, permitted or required by or pursuant to federal law.

2. Legislative objectives:

It was the intent of the Legislature to implement the federal SNAP Act in NYS in order to provide SNAP benefits to eligible NYS residents.

3. Needs and benefits:

The regulatory amendments set forth the SUAs within NYS as of October 1, 2024.

OTDA is amending its SUAs in 18 NYCRR § 387.12(f)(3)(v)(a)–(b) to reflect an increase in fuel and utility costs, which is indicated in the Consumer Price Index (CPI) fuel and utilities values (which includes components for water, sewage and trash collection).

Specifically, OTDA is amending the standard allowance for heating/cooling for SNAP applicant and recipient households residing in New York City from \$992 to \$1,034; the standard allowance for heating/cooling for such households residing in either Nassau or

Suffolk Counties from \$923 to \$962; and for such households residing in any other county of NYS \$819 to \$854. OTDA is also amending the standard allowance for utilities for SNAP applicant and recipient households residing in New York City from \$391 to \$408; the standard allowance for utilities for such households residing in either Nassau or Suffolk Counties from \$363 to \$378; and for such households residing in any other county of NYS from \$332 to \$346. The standard allowance for telephone, as set forth in 18 NYCRR § 387.12(f)(3)(v)(c), will remain \$31 for all counties in the State.

The following chart sets forth the SUA categories; the past SUAs (“Past SUA”) that were in effect for federal fiscal year (FFY) 2024, from October 1, 2023 through September 30, 2024; and the new SUAs (“New SUA”) that are in effect for FFY 2025, effective October 1, 2024:

	New York City		Nassau / Suffolk Counties		Rest of State	
	Past SUA	New SUA	Past SUA	New SUA	Past SUA	New SUA
Heating/Air Conditioning SUA	\$992	\$1,034	\$923	\$962	\$819	\$854
Basic Utility SUA	\$391	\$408	\$363	\$378	\$332	\$346
Phone SUA	SUA: \$31 (for all Counties)					

The aforementioned values have been determined in accordance with the current methodology approved by USDA for adjusting New York State’s SUA values.

To determine the Heating/Cooling and Limited Utility SUA values for FFY 2025, the Consumer Price Index (CPI) Fuel and Utility value for All Urban Consumers, Not Seasonally Adjusted, for June 2024 was compared to the same CPI Fuel and Utility value for June 2023. (The June 2023 CPI value was used to determine the

adjustment for the current FFY 2024 SUA values). The June 2024 CPI-U Fuel and Utility value is 4.25 percent higher than the June 2023 value. Consequently, the SUA figures provided above are 4.25 percent higher than the current FFY 2024 SUA. Rounded to the nearest whole dollar, the resultant values are reflected in the chart above.

To determine the Telephone SUA value for FFY 2025, the Consumer Price Index (CPI) Telephone Services value for All Urban Consumers, Not Seasonally Adjusted, for June 2024 was compared to the same CPI Telephone Services value for June 2023, the CPI value that was used to determine the current FFY 2024 SUA value. The percentage change between June 2023 and June 2024 was then applied to OTDA's current SUA figure and rounded; the June 2024 CPI-U Telephone Services value is 0.08 percent higher than the June 2023 value. Rounded to the nearest whole dollar, this means that the Telephone SUA value for FFY 2025 will remain \$31 statewide.

OTDA has all required approvals from the FNS pertaining to these changes and is required to apply the SUAs for FFY 2025 in its SNAP budgeting effective October 1, 2024. As of October 1, 2024, OTDA does not have federal approval or authority to apply past SUAs in its prospective SNAP budgeting.

It is of great importance that the federally-approved SUAs for the SNAP are applied to SNAP benefit calculations effective October 1, 2024, and thereafter until new amounts

eventually are approved by the USDA. The new federally-approved SUA amounts for heating/cooling, utilities and telephone must be implemented by the October 1, 2024 deadline. The use of a SUA that is not authorized by the USDA could result in severe fiscal sanctions by the federal government against the State. These emergency amendments protect the public health and general welfare by setting forth the federally-approved SUAs effective as of October 1, 2024.

As stated above, there is no federal authority to use past SUAs after the October 1, 2024 effective date of the new federally-approved allowance amounts. For New York to continue the State option to use the SUA in lieu of the actual utility cost portion of SNAP household shelter expenses, new allowances must be in place. Otherwise, the State may be forced to use the actual utility cost portion of the shelter expenses of each SNAP household. This policy would result in all 58 social services districts (districts) in NYS having to require up to 1.7 million SNAP households to provide verification of the actual utility cost portions of their shelter expenses. This policy would create a tremendous burden on both districts as well as recipient households. In addition, as actual utility costs are generally significantly less than the SUAs, SNAP households would have a much smaller shelter deduction resulting in a sizeable reduction in their SNAP benefits. This reduction in SNAP benefits for up to 1.7 million SNAP households would result in significant harm to the health and welfare of these households.

4. Costs:

The regulatory amendments will not result in any impact to the State financial plan. They will not impose costs upon the districts because SNAP benefits are 100 percent federally-funded, and they comply with federal statute and regulation to implement federally-approved SUAs.

5. Local government mandates:

The regulatory amendments do not impose any mandates upon districts since the amendments simply set forth the federally-approved SUAs, effective October 1, 2024. Additionally, the calculation of SNAP budgets, which incorporates the SUAs, and the resulting issuances of SNAP benefits are mostly automated processes in New York City and the rest of the State using OTDA's Welfare Management System. To the extent that these processes are not automated, the regulatory amendments do not impose any additional requirements upon the districts in terms of calculating SNAP budgets.

6. Paperwork:

The regulatory amendments do not impose any new forms, new reporting requirements or other paperwork upon the State or the districts.

7. Duplication:

The regulatory amendments do not duplicate, overlap or conflict with any existing State or federal statutes or regulations.

8. Alternatives:

An alternative to the regulatory amendments would be to refrain from implementing the revised SUAs. However, this alternative is not a viable option because if NYS were to opt not to implement the new SUAs or were otherwise judicially precluded from doing so, then NYS would be out of compliance with federal statutory and regulatory requirements.

9. Federal standards:

The regulatory amendments do not conflict with or exceed minimum standards of the Federal Government.

10. Compliance schedule:

To preserve public health and general welfare, OTDA originally promulgated the emergency rule via a Notice of Emergency Adoption and Proposed Rule Making on September 10, 2024, and the emergency rule became effective on October 1, 2024. The current emergency rule expires on December 8, 2024. Since the regulatory amendments are presently in effect, the State and the districts are already in compliance with the regulatory amendments.

Regulatory Flexibility Analysis for Small Businesses and Local Governments (RFASB&LG)

A RFASB&LG is not required for the regulatory amendments because the regulatory amendments to 18 NYCRR § 387.12(f)(3)(v)(a)-(c) will neither have an adverse economic impact upon, nor impose reporting, recordkeeping, or other compliance requirements upon small businesses or social services districts (districts). The regulatory amendments set forth the federally-approved standard utility allowances for the Supplemental Nutrition Assistance Program effective October 1, 2024. As it is evident from the nature of the regulatory amendments that they will not have an adverse impact upon or impose reporting, recordkeeping, or other compliance requirements upon small businesses or districts, no further measures were needed to ascertain those facts and, consequently, none were taken.

Rural Area Flexibility Analysis (RAFA)

A RAFA is not required for the regulatory amendments to 18 NYCRR § 387.12(f)(3)(v)(a)-(c) because the regulatory amendments will neither have an adverse impact upon, nor impose reporting, recordkeeping, or other compliance requirements upon rural social services districts (rural districts) or private entities in rural areas. The regulatory amendments set forth the federally-approved standard utility allowances for the Supplemental Nutrition Assistance Program effective October 1, 2024. As it is evident that the regulatory amendments will not have an adverse impact upon or impose reporting, recordkeeping, or other compliance requirements upon rural districts or private entities in rural areas, no further measures were needed to ascertain those facts and, consequently, none were taken.

Job Impact Statement (JIS)

A JIS is not required for the regulatory amendments. It is apparent from the nature and the purpose of the regulatory amendments that they do not have a substantial adverse impact on jobs and employment opportunities in either the public or the private sectors in New York State (NYS). The regulatory amendments have no effect on small businesses. The regulatory amendments do not affect, in any significant way, the jobs of the workers in the social services districts (districts) or the State. These regulatory amendments set forth the federally-approved standard utility allowances (SUAs) for the Supplemental Nutrition Assistance Program (SNAP) as of October 1, 2024. The calculation of SNAP budgets, which incorporates the SUAs, and the resulting issuances of SNAP benefits are mostly automated processes in New York City and the rest of the State using the Office of Temporary and Disability Assistance's Welfare Management System. To the extent these processes are not automated, the regulatory amendments do not impose any additional requirements upon the districts in terms of calculating SNAP budgets. Thus, the regulatory amendments do not have any adverse impact on jobs and employment opportunities in either the public or private sectors of NYS.



Office of Temporary and Disability Assistance

KATHY HOCHUL
Governor

BARBARA C. GUINN
Commissioner

RAJNI CHAWLA
Executive Deputy Commissioner

CERTIFICATION

I hereby certify that the attached amendments to § 387.12(f)(3)(v)(a)–(c) of Title 18 of the *Official Compilation of Codes, Rules, and Regulations of the State of New York* are duly adopted by me, Commissioner Barbara C. Guinn, on this date pursuant to authority vested in the New York State Office of Temporary and Disability Assistance (OTDA) by Social Services Law (SSL) §§ 17(a)-(b), and (k), 20(3)(d), and 95; 7 *United States Code* § 2014(e)(6)(C); and 7 *Code of Federal Regulations* § 273.9(d)(6)(iii). These amendments shall be effective on October 1, 2024.

I have determined that it is necessary for the preservation of the public health and the general welfare that these amendments be adopted on an emergency basis, as authorized by the State Administrative Procedure Act (SAPA) § 202(6).

It is of great importance that the federally-approved standard utility allowances (SUAs) for the Supplemental Nutrition Assistance Program (SNAP) are applied to SNAP benefit calculations effective October 1, 2024 and thereafter until new amounts eventually are approved by the United States Department of Agriculture (USDA). The new federally-approved SUA amounts for heating/cooling, utilities and telephone must be implemented by the October 1, 2024 deadline. The use of SUAs that are not authorized by the USDA could result in severe fiscal sanctions by the federal government against the State. These emergency amendments protect the public health and general welfare by setting forth the federally-approved SUAs effective as of October 1, 2024.

As stated above, there is no federal authority to use past SUAs after the October 1, 2024 effective date of the new federally-approved allowance amounts. For New York to continue the State option to use the SUA in lieu of the actual utility cost portion of SNAP household shelter expenses, new allowances must be in place. Otherwise, the State may be forced to use the actual utility cost portion of the shelter expenses of each SNAP household. This policy would result in all 58 social services districts (districts) in New York State having to require up to 1.7 million SNAP households to provide

verification of the actual utility cost portions of their shelter expenses. This policy would create a tremendous burden on both districts as well as recipient households. In addition, as actual utility costs are generally significantly less than the SUAs, SNAP households would have a much smaller shelter deduction resulting in a sizeable reduction in their SNAP benefits. This reduction in SNAP benefits for up to 1.7 million SNAP households would result in significant harm to the health and welfare of these households.

It is noted that the regulatory amendments are being promulgated pursuant to a Notice of Emergency Adoption due to time constraints. To preserve public health and general welfare, OTDA originally promulgated the emergency rule via a Notice of Emergency Adoption and Proposed Rule Making on September 10, 2024, and the emergency rule became effective on October 1, 2024. The Notice of Emergency Adoption and Proposed Rule Making was published in the New York State Register on September 25, 2024 under I.D. No. TDA-39-24-00005-EP. OTDA will be accepting public comments on the current emergency rule through November 25, 2024. The current emergency rule expires on December 8, 2024.

This first readoption of the current emergency rule is necessary in order to avoid a lapse in the current emergency rule, insofar as the expiration of the 60-day public comment period will not provide sufficient time for OTDA to publish a Notice of Adoption in the New York State Register before the current emergency rule expires on December 8, 2024.

No other publication of prior notice is required by statute.

/s/ Barbara C. Guinn

November 13, 2024

Barbara C. Guinn
Commissioner

Date