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Center for Employment & Economic Supports

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TO: Commissioners, TA Directors, FS Directors, WMS Coordinators, CAP/TOP Coordinators, HEAP Coordinators, Staff Development Coordinators

FROM: Phyllis Morris, Acting Deputy Commissioner, Center for Employment and Economic Supports

SUBJECT: Processing Requests for Energy Related Emergencies

EFFECTIVE DATE: November 16, 2011

CONTACT PERSON: Call 1-800-343-8859
Temporary Assistance Bureau, ext 4-9344;
HEAP Bureau, ext 3-0332

The purpose of this message is to reiterate a Temporary Assistance (TA) requirement that remains in effect with the November 16, 2011 opening of the regular component of the Home Energy Assistance Program (HEAP). A social services district (SSD) must explore the availability of and individual eligibility for HEAP benefits before issuing a Family Assistance (FA), Safety Net Assistance (SNA), Emergency Assistance to Needy Families with Children (EAF), Emergency Safety Net Assistance (ESNA) or Emergency Assistance for Adults (EAA) payment to meet utility or non-utility energy related emergencies. The SSD must utilize HEAP to meet an energy emergency if:

- Regular HEAP (beginning on November 16, 2011) and/or Emergency HEAP (beginning January 3, 2012) are available;
- HEAP eligibility is affirmed; and,
- The HEAP benefit available meets the energy emergency.

The SSD must utilize the following procedures when addressing energy emergencies associated with heating, heat-related domestic energy, heating equipment repair/replacement, and/or alternative housing accommodations:

- Explore the availability of regular HEAP before considering emergency HEAP;
- If regular HEAP is not available, or the energy vendor will not accept a regular HEAP benefit to meet the emergency, explore the availability of emergency HEAP; and,
- If HEAP, both regular and emergency, is not available or the energy vendor will not accept the regular and emergency HEAP benefit to meet the emergency, determine TA or EAA eligibility to meet the emergency.

Example: The applicant/recipient has exhausted his/her HEAP benefits for the current program year or the HEAP program is closed for the current program year, the SSD must determine the applicant's/recipient's eligibility for TA or EAA benefits.

Example: An applicant for TA requires a propane delivery. The applicant's propane vendor is not a participating HEAP vendor and therefore the applicant is not eligible for HEAP. Since the applicant is not eligible for HEAP, TA meets the emergency in one of two ways. First, if the client is willing to switch vendors to a HEAP participating vendor, TA may pay for any additional charges, tank deposits for example, in addition to a commodity charge to obtain the propane delivery. This method preserves issuance of the HEAP payment. In the second scenario, the applicant is not willing to change propane dealers, and because HEAP is not a resource available to meet the emergency need then the SSD processes an emergency delivery of

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propane under TA. If the heating source was fuel oil, HEAP would be a resource available to meet the emergency need, and the refusal of the applicant to switch vendors is a basis for denial of TA application in accordance with 18 NYCRR § 351.1(b)(2)(iii).

To determine eligibility for a TA or EAA benefit to meet an energy emergency, the SSD must follow the policy and procedures outlined in the Energy Manual and the revised "TA Energy Emergencies Comparison Table (LDSS-4884)," released by 10 INF-18, *Revision to the LDSS-4884: Temporary Assistance Energy Emergencies Comparison Table*.

Certain applicants for emergency energy assistance may be required to sign a "Utility Arrears Repayment Agreement," described in 96 ADM-9, *Utility Arrears Repayment Agreement*, and Section VIII, NTA Households, of the Energy Manual. 09 ADM-17, *Changes to the Utility Arrears Repayment Agreement Terms and Enforcement Option*, provides information regarding an SSD's option for suspending the enforcement of utility repayment agreements during the cold weather period for households defaulting on an existing utility repayment agreement who are applying for assistance with a current utility (natural gas and/or electricity) related emergency. For the purposes of this suspension **only**, the cold weather period is defined as beginning on November 1st of each year and ending April 15th of the following year. Additionally, Chapter 318 of the Laws of 2009 amended Social Services Law § 131-s by requiring that the term of any utility repayment agreement signed on or after August 11, 2009 be extended from 12 months to 24 months.

When meeting **any** emergency need using TA funds, including energy emergencies, the SSD must issue a same day notice, "Notice of Acceptance/Denial to Meet an Immediate Need or a Special Allowance (LDSS-4002)," or an approved local equivalent.

- This notice must clearly explain to the applicant/recipient how the SSD or the applicant must meet the emergency/immediate need.
- The SSD must complete the LDSS-4002 and provide it to the applicant/recipient even if the SSD does not meet the individual's immediate need with TA, addressing the need through a referral or some other source other than TA.

For example, the SSD may meet the declared energy emergency of an applicant through a referral to the HEAP unit, if HEAP is available, if the applicant has not exhausted their current HEAP benefit and appears eligible for HEAP, and if the HEAP meets the emergency need. The LDSS-4002, or approved local equivalent must state that the referral is available and meets the emergency need.

- If the SSD denies the application, the notice must note the reason for the decision, including those instances when the emergency is not an immediate need and that the SSD will address the emergency need later, for example, at the eligibility interview. When the SSD defers the resolution of the emergency to a later date, the SSD must issue another LDSS-4002, or approved local equivalent, at the time the SSD meets the need.
- The LDSS 4002 is required for TA applicants who declare on the "Common Application (LDSS-2921)" their intention of applying for emergency assistance only by checking the box "Emergency Payment Only (EMRG)" or when the SSD discovers and documents this fact during the interview.

For further information and policy on processing emergency/immediate needs requests, please see 02 ADM-02, *Meeting the Emergency/Immediate Needs of Temporary Assistance (TA) Applicants/Recipients*.

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Guarantee of Payment

SSD's must issue a guarantee when authorizing utility arrears payments using TA or EAA funds for all active TA and SSI households for a period of six months or until the TA or SSI case closes, whichever is sooner. When a recipient moves from one dwelling unit to another, remaining in continuous receipt of TA or SSI, the SSD issuing the guarantee must continue to honor that guarantee for as long as the utility company and the tenant/customer of record status remains unchanged. This remains true regardless of whether the account number changes or whether that unit is in the same SSD that authorized the guarantee, or in another SSD. The period of this guarantee begins on the date disconnected service is restored, or on the first day of the new billing period following the last day of the billing period the SSD used to calculate the arrears payment.

Note: this policy does not cover out of state moves even when the utility company remains the same.

Any applicant for regular or emergency HEAP who fails to comply with HEAP eligibility requirements is deemed to have failed to apply for and utilize a benefit or resource that will eliminate the need for TA in accordance with 18 NYCRR § 351.1(b)(2)(iii) and is ineligible for any TA benefit to meet the energy emergency, including housing accommodations.

Honoring Commitments Made to Energy Providers

To reiterate from previous releases, the SSD is obligated to make those TA and HEAP payments to utility and non-utility energy providers when meeting energy related emergency/immediate needs for applicants of or recipients of TA once the SSD makes a commitment to the energy provider. This is important when the energy provider agrees to continue or restore natural gas or electric service, or makes a fuel delivery based on this commitment.

If, after making the commitment, further investigation determines that the recipient was not eligible for such assistance, the SSD must still make the payment that they committed to make, and then pursue recovery from the recipient. The only exception is when the SSD contacts the energy provider, and after explaining the situation, the energy provider agrees to allow the SSD to rescind the commitment. In this situation, the SSD is not obligated to make the payment.

Customer of Record receives Supplemental Security Income (SSI)

Social Services Law (SSL) Section 131-s outlines an SSD's responsibility for meeting utility (natural gas and/or electricity) emergencies for recipients of SSI and additional State payments. Therefore, for those applicants seeking utility emergency relief, who are recipients of SSI or additional State payments with a verified customer and tenant of record status, the SSD must first determine the availability of HEAP before exploring the eligibility for EAA. This requirement also applies in those situations in which the applicant in receipt of SSI functions as a legally or non-legally responsible caretaker for children for whom the caretaker receives TA, regardless of whether the TA case is budgeted with a fuel allowance under 18 NYCRR § 352.5(b).

Replacement Page for Energy Manual

When applicants/recipients with energy emergencies are not eligible for HEAP, or when HEAP is not available, please refer to the chart on the next and final page of this document, outlining the appropriate household category for processing requests using TA (FA, SNA, EAF, ESNA) for recipients of recurring TA or NTA households, and using EAA for SSI households. Please use this page to replace Page 43 of the Energy Manual, Section V, Emergency Assistance General Information. The categorical labels of TA, NTA,

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or SSI determine how a SSD processes the request for emergency assistance according to the appropriate section of the Energy Manual. Although TA bases household category on the status of the customer of record, the customer of record must also be the tenant of record, or the spouse of the tenant of record, in order to receive TA energy assistance.

HOUSEHOLD CATEGORY (Revised 11/14/11)

CUSTOMER OF RECORD	HOUSEHOLD CATEGORY
TA Recipient	TA
Non SSI grantee for children with a heating allowance in the TA budget	TA
NTA with spouse in receipt of TA	TA
Sanctioned TA recipient with spouse and/or children in receipt of TA	TA
Not in receipt of TA or SSI	NTA
Non SSI grantee not budgeted with a heating allowance	NTA
TA Applicant	NTA
Single individual sanctioned for TA and case closed	NTA
Active SSI recipient	SSI-EAA Only
Active SSI recipient with minor children and/or spouse on TA and budgeted with a heating allowance	SSI-EAA Only
Active SSI recipient with minor children and/or spouse without a heating allowance in the TA budget	SSI-EAA Only
Active SSI recipient with an NTA spouse who is the tenant of record	SSI-EAA Only
Not in receipt of SSI with a spouse who is SSI and the tenant of record	NTA