

DATE: November 9, 2015

TO: Subscribers

SUGGESTED DISTRIBUTION: Commissioners, TA Directors, SNAP Directors, WMS Coordinators, HEAP Coordinators, Staff Development Coordinators

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

SUBJECT: Processing Temporary Assistance (TA) Requests for Energy Emergencies

EFFECTIVE DATE: Immediately

CONTACT PERSON: TA Program Questions: TA Bureau at 1-800-343-8859, ext. 4-9344
HEAP Program Questions: HEAP Bureau at 1-800-343-8859, ext. 3-0332

The opening of the regular Home Energy Assistance Program (HEAP) on November 16, 2015, and Emergency HEAP on January 4, 2016, requires Social Services Districts (SSDs) to explore the availability of, and individual eligibility for, regular and/or emergency 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 a utility (natural gas or electricity) or non-utility (other than natural gas or electricity) energy emergency.

Utilization of Available Resources to Ameliorate an Emergency

Temporary Assistance (TA)¹ applicants/recipients (A/R) must pursue, accept and utilize any available resource such as: cash, HEAP, negotiated deferred payment agreement (DPA) or relocation to viable housing to ameliorate a utility (natural gas or electricity) or non-utility (other than natural gas or electricity) energy emergency.

In accordance with 18 NYCRR 352.23, pursuing and accepting available resources is a condition of TA eligibility. If a TA A/R household refuses, without good cause, to pursue or utilize available resources, the A/R's household must be denied or discontinued TA assistance.

As prescribed in 02 ADM-02, "Meeting the Emergency/Immediate Needs of Temporary Assistance (TA) Applicants/Recipients," to be considered available, a resource needs to be accessible and available in order to meet an applicant's need. Before making a referral to a community resource, the district must confirm with the community resource that they are indeed able to meet that person's emergency need.

¹ Whenever 'Temporary Assistance' or 'TA' is used in this document, it means 'Family Assistance' and 'Safety Net Assistance.' Statutorily, these programs are referred to as 'Public Assistance.'

Applicant Right to Submit an Application

An individual has the right to file an application with an SSD at any time. An individual's right to apply and be interviewed for TA must not be denied, limited or discouraged. SSDs are required to respond to an applicant's declaration of an emergency/immediate need at the time of application for TA and to provide appropriate notice to the applicant regarding the meeting of their emergency/immediate need(s). SSDs are required to assess the emergency situation and if an immediate need is determined to exist, meet the immediate need the same day the applicant comes into the office.

Applications for emergency TA must be processed in accordance with 02 ADM-02, "Meeting the Emergency/Immediate Needs of Temporary Assistance (TA) Applicants/Recipients," procedures regarding energy emergencies outlined in the Energy Manual, and statutory and regulatory authority granted under Social Services Law §131-s and 18 NYCRR 352.5(c)-(e).

Energy Emergencies and Alternative Housing

Energy emergencies may be alleviated through relocation into viable alternative housing. Viable alternative housing means safe, permanent and more affordable housing, including housing with more affordable energy costs or housing where the rent includes heat. It also means that this housing must be actually available for the individual or family to move into in order to meet the emergency need in accordance with GIS 05 TA/DC048.

Cold Weather Periods

Utility disconnects are considered TA emergencies year round regardless of whether the utility is heat or non-heat. To be considered a TA emergency, the non-utility fuel must be used for heat, and the fuel emergency must occur during the SSD's cold weather period. Each SSD determines its own non-utility cold weather period which will apply to all applicants for non-utility fuel emergencies. The SSD cold weather period must be uniformly applied for all applicants for emergency energy assistance. To encourage uniform application of the SSD cold weather period it is recommended that SSDs identify their cold weather period and memorialize the information in written SSD local policies.

There is no cold weather period for heating equipment repair or replacement. Heating equipment repair is an additional need and is not considered to be an energy emergency.

Suspension of Utility Repayment Agreements During Cold Weather Period

NTA households with incomes over the TA standard of need for their household size must sign a repayment agreement as a condition of eligibility for a utility emergency payment as prescribed in 96 ADM-09. To receive subsequent utility arrears payments, the household must have repaid the previous agreement or be current on that repayment agreement.

In accordance with 09 ADM-17, SSDs may elect to suspend the enforcement of previous and new repayment agreements until April 15, 2016. The terms of new repayment agreements signed during this period will begin on April 16, 2016, and run for 24 months forward from that date. For any previous repayment agreements, the terms of the repayment agreement will resume on April 16, 2016.

If a district chooses to suspend the enforcement of utility arrears repayment agreements during the heating season, suspension of these agreements must be uniformly applied for all applicants for emergency energy assistance under TA programs. This policy does not affect a district's ability to secure a lien for emergency energy assistance granted under FA, SNA, ESNA, or EAF.

Applicants receiving emergency energy assistance through EAA, NTA households with incomes below the TA standard of need, and applicants facing non-utility heating emergencies are not required to sign repayment agreements.

Liens

In accordance with Social Services Law §106, SSDs are authorized to pursue a real property lien to offset a utility repayment agreement or to recover payments made to meet non-utility energy emergencies. Real property liens must not be used to recover payments provided under Emergency Assistance to Adults (EAA).

Financial Statement (LDSS-3596)

The LDSS-3596 Financial Statement assesses an A/R's financial situation to determine if he/she is required to attempt to negotiate a Deferred Payment Agreement (DPA) with his/her utility company. A positive cash flow on a LDSS-3596 is **not** a basis for denial of assistance with the utility related emergency under SSL § 131-s, but is an indication that an applicant/recipient may be eligible to negotiate and enter into alternative payment arrangements, a DPA, with his/her utility company. A positive cash flow for a Non-Temporary Assistance (NTA) household requires a referral from the district that directs the A/R to his/her utility company to attempt negotiation of a DPA. TA households and SSI households may be required to pursue a DPA if the SSD determines that it is a viable resource.

Although an A/R may have a positive cash flow, a utility company may refuse to enter into a DPA with the customer. The utility company makes the final decision on whether or not to approve a DPA. A refusal by a utility company to enter into a DPA agreement with a customer is not a basis for district denial of assistance to meet an energy emergency in accordance with SSL § 131-s. However, a refusal to attempt to negotiate a DPA on the part of any A/R with a positive cash flow who is required by the SSD to attempt negotiation of a DPA is a basis for denial of emergency assistance under SSL § 131-s.

Food/Non-Food Expenses

The LDSS-3596 allows for entry of a deduction from gross income for Food/Non-Food monthly expenses. Guidelines for these expenses are established annually by the Office of Temporary and Disability Assistance and are based on the Supplemental Nutrition Assistance Program's (SNAP) Thrifty Food Plan. This year's guidelines remain the same as last year's.

The amount of the Food/Non-Food deduction allowed on the LDSS-3596 for this expense is based on the actual monthly expenses of the household up to the maximum amounts listed below. These are only guidelines. Households may exceed these maximum amounts only under special circumstances such as special dietary needs or medical conditions. These cases should be reviewed on a case-by-case basis to determine if a higher deduction is appropriate.

Effective immediately, SSDs must use the amounts in the DPA Food/Non-Food Expense Chart below:

DPA Food/Non-Food Expense Chart	
Household Size	Food/Non-Food
1	\$291
2	\$536
3	\$767
4	\$974
5	\$1157
6	\$1388
7	\$1533
8	\$1754
Each Additional Person	+ \$219

Please refer to the Energy Manual, Section XII: “Deferred Payment Agreements,” for additional information and instructions on how to complete the LDSS-3596.

Commitment to Pay

The SSD must issue authorized payments to an energy provider when a written, verbal, or electronic commitment of payment was made by the SSD to the vendor to continue or restore utility service or obtain non-utility fuel to meet an energy emergency. If, after making the commitment, further investigation determines that the recipient was not eligible for such assistance, the SSD must still make the payment to the energy provider and then pursue recovery from the TA recipient. The only exception to honoring a commitment to pay is if the SSD contacts the energy provider, explains the situation, and the energy provider agrees to rescind the commitment.

Heating Equipment Repair and/or Replacement

Individuals seeking help with heating equipment repair or replacement needs after the HEAP component closes, or who have been found ineligible through HEAP, may, if they apply and are found eligible, have their needs met under Family Assistance (FA), Safety Net Assistance (SNA), Emergency Assistance to Families (EAF), Emergency Safety Net Assistance (ESNA), or Emergency Assistance for Adults (EAA). Department Regulations 18 NYCRR 352.4(d), 352.6(e), 352.7(b), 372.4(b) and 397.5(h) provide SSDs the ability to meet the costs necessary for the repair or replacement of essential heating equipment if the repair or replacement is essential to the health and safety of the household. For more information, see the Temporary Assistance Sourcebook, chapter 16, section C, Equipment Repairs.

Available resources for heating equipment repair or replacement may include programs such as NYSERDA's EMPOWER program. For details, go to:

<http://www.nyseda.ny.gov/Energy-Efficiency-and-Renewable-Programs/Residential/Energy-Efficiency-Programs/Home-Energy-Efficiency-Upgrades/EmPower-New-York.aspx> or call Empower at 1-800-263-0960.

Home Energy Fair Practices Act (HEFPA)

SSDs must comply with the HEFPA procedures conveyed in 93 ADM-26 and Section XIV of the Energy Manual. Each SSD must have a designated HEFPA liaison who will communicate and work with utility companies on HEFPA related issues and referrals.