



# Office of Temporary and Disability Assistance

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## General Information System (GIS) Message

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### Section 1

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| <b>Transmittal:</b>            | 20 TA/DC103<br>Upstate and New York City   |
| <b>Date:</b>                   | November 16, 2020  |
| <b>To:</b>                     | Subscribers  |
| <b>Suggested Distribution:</b> | Commissioners, TA Directors, SNAP Directors, WMS Coordinators, HEAP Coordinators, Staff Development Coordinators   |
| <b>From:</b>                   | Jeffrey Gaskell, Deputy Commissioner<br>Employment and Income Support Programs   |
| <b>Subject:</b>                | Processing Temporary Assistance (TA) Requests for Energy Emergencies   |
| <b>Effective Date:</b>         | Immediately  |
| <b>Contact Information:</b>    | TA Program Questions: TA Bureau at: (518) 474-9344 or <a href="mailto:otda.sm.cees.tabureau@otda.ny.gov">otda.sm.cees.tabureau@otda.ny.gov</a><br>HEAP Program Questions: HEAP Bureau at: (518) 473-0332 or <a href="mailto:NYSHEAP@otda.ny.gov">NYSHEAP@otda.ny.gov</a> |

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### Section 2

The opening of the regular Home Energy Assistance Program (HEAP) component on November 2, 2020, and Emergency HEAP component on January 4, 2021, requires local social services districts (districts) 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.

#### Use of Available Resources to Resolve an Energy Emergency

Temporary Assistance (TA) applicants/recipients (A/R) must pursue, accept and use any available resource such as: cash, HEAP, negotiated deferred payment agreement (DPA) or relocation to viable housing to resolve 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.

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.

### **Applicant Right to Submit an Application**

An individual has the right to file an application with a district at any time. An individual's right to apply and be interviewed for TA must not be denied, limited or discouraged. A moratorium on terminations or disconnections of residential utility services has no bearing on whether an applicant/recipient (A/R) may apply for and receive emergency energy assistance as outlined in [GIS 20TA/DC100](#). Districts must not deny an application for an emergency payment for a utility termination or disconnection solely based upon an existing moratorium. Districts 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). Districts are required to assess the emergency 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](#), 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 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 district's cold weather period. Each district determines its own non-utility cold weather period which will apply to all applicants for non-utility fuel emergencies. The district cold weather period must be uniformly applied for all applicants for emergency energy assistance. To encourage uniform application of the district cold weather period it is recommended that districts identify their cold weather period and memorialize the information in written district specific 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**

Non-Temporary Assistance (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](#), "Utility Arrears Repayment Agreement". If the applicant's gross monthly household income is below the TA standard of need, a repayment agreement is not necessary, and the applicant does not have to be current on any outstanding repayment agreements for utility arrears assistance they have previously received.

To receive subsequent utility arrears payments, NTA households with incomes over the TA standard of need must have repaid the previous agreement or be current on that repayment agreement. If an applicant signs a Utility Arrears Repayment Agreement and then becomes eligible for TA or SSI, districts must suspend any unpaid balance on his/her arrears payment until such person is no longer receiving TA or SSI.

In accordance with [09-ADM-17](#), “Changes to the Utility Arrears Repayment Agreement Terms and Enforcement Option,” districts may elect to suspend the enforcement of previous and new repayment agreements from November 1, 2020, until April 15, 2021. The terms of new repayment agreements signed during this period will begin on April 16, 2021 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, 2021.

If a district chooses to suspend the enforcement of utility arrears repayment agreements during the utility cold weather period, 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 a repayment agreement or to be current on previous repayment agreements in order to receive emergency energy assistance.

Districts have the ability to request waivers of regulations as outlined in GIS [20 TA/DC078](#). An example of such a waiver would permit individuals who have an outstanding utility arrears repayment agreement to receive a new utility arrears payment outside of the utility cold weather period if otherwise eligible.

## Liens

In accordance with Social Services Law §106, districts are authorized to pursue a real property lien to offset a utility repayment agreement or to recover payments granted under FA, SNA, ESNA, and EAF to meet utility and/or non-utility energy emergencies. Real property liens must not be used to recover payments provided under EAA. For additional information on liens, see [15-ADM-05-T](#).

## Financial Statement (LDSS-3596)

The [LDSS-3596](#) Financial Statement assesses an A/R’s financial situation to determine if they are required to attempt to negotiate a Deferred Payment Agreement (DPA) with their utility company. A positive cash flow on a LDSS-3596 is **not** a basis for denial of assistance with a 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 their utility company. A positive cash flow for an 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 district 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 district 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. Effective immediately, districts must begin using the updated Food/Non-Food guidelines.

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, districts 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                               | \$306         |
| 2                               | \$561         |
| 3                               | \$803         |
| 4                               | \$1,020       |
| 5                               | \$1,210       |
| 6                               | \$1,454       |
| 7                               | \$1,607       |
| 8                               | \$1,836       |
| Each Additional Person          | + \$230       |

Please refer to the Energy Manual, Section XI: “Deferred Payment Agreements,” for additional information and instructions on how to complete the [LDSS-3596](#).

### Commitment to Pay

The district must issue authorized payments to an energy provider when a written, verbal, or electronic commitment of payment was made by the district 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 that they received, the district 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 district 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 FA, SNA, EAF, ESNA, or EAA. Department Regulations 18 NYCRR 352.4(d), 352.6(e), 352.7(b), 372.4(b) and 397.5(h) provide districts 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:

<https://www.nyserda.ny.gov/All-Programs/Programs/EmPower-New-York>.

### Home Energy Fair Practices Act (HEFPA)

Districts must comply with the HEFPA procedures conveyed in [93-ADM-26](#) and Section XIII of the Energy Manual. Each district must have a designated HEFPA liaison who will communicate and work with utility companies on HEFPA related issues and referrals.

### LDSS-4884 Emergency Energy Assistance Desk Guide

The [LDSS-4884](#) Emergency Energy Assistance Desk Guide (Revision date 11/15) is available as a resource to assist in handling energy emergencies. This chart summarizes how both utility and non-

utility energy emergencies must be handled for different household types. The LDSS- 4884 may be accessed online at: [http://otda.state.ny.net/ldss\\_eforms/eforms/4884.pdf](http://otda.state.ny.net/ldss_eforms/eforms/4884.pdf).

## **Training**

OTDA's Training and Staff Development (TSD) coordinates a wide range of classroom and virtual training opportunities via the WebEx application, including energy training. Classroom trainings are offered at regional sites and can be requested for on-site delivery. Virtual trainings can be conducted remotely, without travel, either at the district's office or at another district preferred remote learning environment. Requests for both classroom and virtual training deliveries should be made by the district Staff Development Coordinator or an otherwise authorized district representative. The on-site training request form and the list of potential classroom and virtual offerings may be accessed through <https://trainingspace.ny.gov/apps/onsite-training-request> or [CentraPort](#). Each access point requires the appropriate Internet/OTDA Intranet permissions.

If you have any questions regarding completion of the online training request form or the process, please contact TSD at: 518-402-9600.