NEW YORK STATE OF OPPORTUNITY. | Office of Temporary and Disability Assistance

Temporary Assistance Energy Manual

Employment and Income Support Programs

ENERGY MANUAL

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I. TEMPORARY ASSISTANCE (TA) FUEL FOR HEATING ALLOWANCES

A. General Information

1. Definition

   A fuel for heating allowance is that portion of a TA grant intended to meet the costs associated with the energy required to heat the dwelling of a TA case(s).

2. Fuel for Heating Allowances are:

   a. County specific
   b. Based on a twelve (12) month heating season
   c. Based on the TA case size
   d. Based on Applicant/Recipient/Grantee (A/R/G)'s primary heat source

   NOTE: The heating allowance must not be based on a source of heat other than the primary source. For example: a household whose primary heat source is natural gas but which uses supplemental electric heaters is eligible for a natural gas heat allowance not an electric allowance.

3. Districts must provide a fuel for heating allowance, based upon the schedules in the TA Fuel for Heating Allowance Schedules section of this manual, to the following:

   a. adult or minor heads of household A/R/Gs of TA who document that they are both the tenant and customer of record. Social Service Districts (districts) must provide a heating allowance if the legal spouse of the adult TA recipient is the documented tenant and customer of record and remains in the household. districts must also provide a heating allowance to the surviving spouse of a deceased spouse who was the documented tenant and customer of record.

   b. self-maintaining grantee in receipt of public assistance for a dependent child(ren) when it is documented that the grantee or his or her spouse residing in the same household, is the tenant and customer of record This is based upon the *McMullen v. Perales* litigation. (See 91 ADM-3)

   c. remaining case members, based upon the number of persons remaining in the TA case, when the tenant and customer of record is subject to an *incremental* sanction, but remains in the household. For example: if one person in a four- person case is sanctioned, the heating allowance is based on three persons.

   d. districts must provide a heating allowance, based on the TA household count, when the tenant and customer of record is subject to a pro-rational and/or IV-D non-compliance sanction. The district must use the sanction indicators in 01 INF-12 to accomplish the reduction. (For example: if one person in a four-person case is on a pro-rational sanction, the TA deficit is reduced by 25% (¼), but the fuel allowance is still based on four persons. If one person in a case is subject to an IV-D non-compliance sanction, the total TA needs will be reduced by 25% (¼), but the fuel allowance is still based on four persons.)

e. Mixed Households – districts must provide a heating allowance, based upon the number of TA recipients in the household, when the household is comprised of TA and Non-Temporary Assistance (NTA) individuals and the adult TA recipient is the tenant and customer of record.

f. CO-OP cases with legal lines of responsibility. districts must provide a pro-rated heating allowance to each cooperatively budgeted case when there are legal lines of responsibility or the cases reside as one economic unit and it is documented that at least one adult or minor head of household is the tenant and customer of record.

g. CO-OP cases with no legal lines of responsibility/separate economic units. In a cooperatively budgeted situation where no legal lines of responsibility exist or when the cases reside as separate economic units, districts must provide a heating allowance to the TA case containing the documented tenant and customer of record based upon that TA case's household size.

   The district must not provide a heating allowance to the other cooperatively budgeted TA case by entering Fuel Type "X – no fuel allowed" in the fuel type field on the ABEL input screen.

h. Shared meter A/R/Gs whose utility heating bill may include costs for service for the A/R/G's own residential unit and for space outside that unit or whose fuel for heating bill includes costs for the A/R/G's own residential unit and for other residential units when it is documented that the A/R/G is the tenant and customer of record. The district must determine whether a referral for a shared meter investigation, in accordance with the provisions of Section 52 of the Public Service Law, is appropriate. For more information, see the Shared Meter section of this manual.

4. Districts must not provide a heating allowance to:

   a. Non-legally responsible grantees that charge the dependent child(ren) room, or room and board.

   b. Households whose heat is included in the shelter payment. A fuel type code of "0 – heat included in shelter costs" is entered in the fuel type field on the ABEL input screen.

   c. A/R/Gs residing in section 8 certificate housing (the district must continue to enter the appropriate fuel type into ABEL once the tenant and customer of record requirement status are documented).

   d. A/R/Gs who do not meet the tenant and customer of record requirements.

   e. A/R/Gs who are unable to document tenant and/or customer of record status. These cases must be provided with a shelter allowance with or without children, A fuel type of "X – no fuel allowed" is entered in the fuel type field on the ABEL input screen.

f. Non-legally responsible self-maintaining grantees who charge the dependent children in receipt of TA room, or room and board.

g. Households where the heating bill is in a minor child's name (this does not apply to minor heads of households). A minor child is defined as a child under age 18 or 18 and in school. A fuel type of "X – no fuel allowed" is entered in the fuel type field on the ABEL input screen.

5. Systems Support

a. ABEL will system generate heating allowances based on the fuel type code entered in the fuel type field in the ABEL input screen and on the number of people in the TA case.

B. Documentation Requirements

1. Tenant of Record

   a. Districts **must** document the **tenant of record** status in the case record by obtaining one of the following:

      (1) current landlord statement
      (2) lease/rental agreement
      (3) mortgage payment book
      (4) deed/land contact
      (5) current rent receipt with A/R/G's name and address
      (6) collateral contact

2. Customer of Record

   a. Districts **must** document the **customer of record** status in the case record by obtaining one of the following:

      (1) current residential energy bill
      (2) statement from an energy provider
      (3) collateral contact including information verified by accessing an energy vendor's website, or by speaking with an energy vendor representative over the phone. Collateral contact must be documented in the case record.

      When an A/R/G provides documentation of his or her customer and tenant of record status a heating allowance is provided prospectively from the date that documentation is provided.

C. TA Heating Allowances – Case Examples

Example 1 – Heat Included

Ms. Smith and her three children are recipients of Family Assistance (FA). Ms. Smith was living in an apartment with heat included. She subsequently moves into another apartment that does not include heat as part of the ongoing shelter expense. She submits a new landlord statement to her worker. The landlord statement documents her heating situation and that she is the tenant of record. Contact with the utility company verifies that Ms. Smith at her current address is the customer of record and that her primary heating source is natural gas. Ms. Smith is now eligible to receive a heating allowance for a household of four since she is the customer and tenant of record.

Example 2 – Pro-Rata Sanction

Ms. Smith refuses to be screened for possible drug and/or alcohol abuse. As a result of this refusal, she is subject to a pro-rata sanction until compliance. Ms. Smith retains her tenant and customer of record status. The worker does not change the Case (CA) or Household (HH) counts on the ABEL budget input screen. The pro-rata sanction (PSP) field on the ABEL input screen is data filled with a "1". As a result, Ms. Smith continues to receive a heating allowance for four people, but her deficit is reduced by 25% (¼). The pro-rata sanction process will apply the appropriate grant reduction. The family is still eligible for a heating allowance based on the household count.

Example 3 – Mixed Household

Ms. Smith complies with the drug and alcohol screening process and the pro-rata sanction is over. Ms. Smith reports that her 26-year-old brother has moved into the household and that he is not in receipt of or applying for TA (an NTA individual). The worker verifies that Ms. Smith retains her tenant and customer of record status. The district continues to provide a heating allowance based on the four persons in the TA case.

Example 4 – CO-OP No lines of Legal Responsibility

Several months later, Ms. Smith's brother, John, applies for and is determined eligible for Safety Net Assistance (SNA). John does not choose to be made an essential person on Ms. Smith's FA case. Ms. Smith retains her tenant and customer of record status. Since there are no legal lines of responsibility and the cases do not reside as one economic unit, the district continues to provide Ms. Smith with a heating allowance for a household of 4. John is not eligible for a heating allowance on his case. This is accomplished by placing an X in the Fuel Type field and an “S” in the ABEL “PRO” field of John’s ABEL budget.

Example 5 – CO-OP Legal Lines of Responsibility

Ms. Smith's brother, John, leaves the household. Ms. Smith's 20-year-old daughter, Veronica moves into the household. Veronica is determined eligible for SNA. (She is not FA because she chose not to be an essential person on her mother's case. Cooperative budgeting methodologies are applied because there are legal lines of responsibility between the cases. The heating allowance is based on a household of six and is prorated between Ms. Smith's (4/5) and Veronica's (1/5) cases. This is accomplished by leaving the ABEL "PRO" field blank. For more information on cooperative budgeting see the TASB, chapter 13, section F.

Example 6 – Shared Meter

Ms. Smith again moves leaving her daughter Veronica behind. Ms. Smith submits a landlord statement that verifies that she is the tenant of record in her new apartment and that she is responsible for paying the heating costs for her apartment and for a vacant studio apartment next to hers. The worker verifies with the utility company that Ms. Smith is the customer of record. A shared meter investigation determines that the landlord stores furniture in this studio apartment and that the quantity of heating service required for this vacant apartment will be minimal. Ms. Smith has also signed a lease with the landlord, which includes her responsibility for this expense. The worker will provide Ms. Smith with a heating allowance for four people. Veronica's case also needs to be reviewed and new budget calculated to reflect her current living situation.

Example 7 – Self Maintaining Grantee charges children room and board

Ms. Smith moves out of her current county of residence, leaving her three children in the custody of her mother, Andorra. Three months later, Andorra comes into the Department of Social Services to apply for assistance on behalf of her grandchildren. Andorra documents her tenant of record and customer of record status. Andorra charges room and board. The worker provides the appropriate room and board allowance and does not provide a heating allowance.

Example 8 – Self Maintaining Grantee does not charge children room and board

At recertification, Andorra states that she no longer wants room and/or board for her grandchildren. She now wants to charge the children rent. She documents her tenant of record status and provided her fuel for heating bill, which documents her customer of record status. The worker allows a shelter with children allowance equal to actual expenses or up to the agency maximum for a family of three, (there are three grandchildren). The worker also allows a heating allowance for three since Andorra is a non-legally responsible self-maintaining grantee and has documented her tenant and customer of record status.

II. TA FUEL FOR HEATING ALLOWANCE SCHEDULES

SCHEDULE SA-6a
MONTHLY ALLOWANCES FOR FUEL FOR HEATING
BEGINNING OCTOBER 1, 1987:

Oil, Kerosene, Propane

Counties of: Nassau, New York City, Suffolk, Westchester

Number of persons	1	2	3	4	5	6	7	8+
12 month	$70	70	70	73	77	82	88	93

Counties of: Chautauqua, Dutchess, Orange, Putnam, Rockland, Ulster

Number of persons	1	2	3	4	5	6	7	8+
12 month	$68	68	68	71	74	80	85	91

Counties of: Columbia, Erie, Genesee, Livingston, Monroe, Niagara, Onondaga, Ontario, Orleans, Oswego, Wayne

Number of persons	1	2	3	4	5	6	7	8+
12 month	$69	69	69	72	75	81	87	92

Counties of: Albany, Cayuga, Chemung, Greene, Schenectady, Schuyler, Seneca, Tompkins, Yates

Number of persons	1	2	3	4	5	6	7	8+
12 month	$69	69	69	72	75	81	87	92

Counties of: Allegany, Broome, Cattaraugus, Chenango, Cortland, Delaware, Fulton, Jefferson, Madison, Montgomery, Otsego, Rensselaer, Saratoga, Schoharie, Steuben, Sullivan, Tioga, Warren, Washington, Wyoming

Number of persons	1	2	3	4	5	6	7	8+
12 month	$72	72	72	75	78	84	90	96

Counties of: Clinton, Lewis, Oneida, St. Lawrence

Number of persons	1	2	3	4	5	6	7	8+
12 month	$71	71	71	74	78	83	89	95

Counties of: Essex, Franklin, Hamilton, Herkimer

Number of persons	1	2	3	4	5	6	7	8+
12 month	$77	77	77	80	84	90	96	102

SCHEDULE SA-6b
MONTHLY ALLOWANCES FOR FUEL FOR HEATING
BEGINNING OCTOBER 1, 1987:

Natural Gas, Coal, Wood, Municipal Electric Utilities not Regulated by the Public Service Commission, Energy Services Company (ESCO), Any Other Fuel not Covered by SA-6a and SA-6c

Counties of: Nassau, New York City, Suffolk, Westchester

Number of persons	1	2	3	4	5	6	7	8+
12 month	$56	56	56	58	61	65	69	74

Counties of: Chautauqua, Dutchess, Orange, Putnam, Rockland, Ulster

Number of persons	1	2	3	4	5	6	7	8+
12 month	$55	55	55	57	60	64	68	73

Counties of: Columbia, Erie, Genesee, Livingston, Monroe, Niagara, Onondaga, Ontario, Orleans, Oswego, Wayne

Number of persons	1	2	3	4	5	6	7	8+
12 month	$54	54	54	56	58	63	67	71

Counties of: Albany, Cayuga, Chemung, Greene, Schenectady, Schuyler, Seneca, Tompkins, Yates

Number of persons	1	2	3	4	5	6	7	8+
12 month	$58	58	58	60	63	68	72	77

Counties of: Allegany, Broome, Cattaraugus, Chenango, Cortland, Delaware, Fulton, Jefferson, Madison, Montgomery, Otsego, Rensselaer, Saratoga, Schoharie, Steuben, Sullivan, Tioga, Warren, Washington, Wyoming

Number of persons	1	2	3	4	5	6	7	8+
12 month	$58	58	58	60	63	67	72	77

Counties of: Clinton, Lewis, Oneida, St. Lawrence

Number of persons	1	2	3	4	5	6	7	8+
12 month	$55	55	55	57	60	64	69	73

Counties of: Essex, Franklin, Hamilton, Herkimer

Number of persons	1	2	3	4	5	6	7	8+
12 month	$66	66	66	68	71	77	82	87

SCHEDULE SA-6c
MONTHLY ALLOWANCES FOR FUEL FOR HEATING
BEGINNING OCTOBER 1, 1987:

Public Service Commission-Regulated Electric Utilities, Village of Greenport Electric, Energy Services Companies (ESCOS)

Counties of: Nassau, New York City, Suffolk, Westchester

Number of persons		1	2	3	4	5	6	7	8+
12 month	$90	90	90	94	99	106	113	120	

Counties of: Chautauqua, Dutchess, Orange, Putnam, Rockland, Ulster

Number of persons		1	2	3	4	5	6	7	8+
12 month	$105	105	105	109	114	123	131	139	

Counties of: Columbia, Erie, Genesee, Livingston, Monroe, Niagara, Onondaga, Ontario, Orleans, Oswego, Wayne

Number of persons		1	2	3	4	5	6	7	8+
12 month	$107	107	107	111	117	125	134	142	

Counties of: Albany, Cayuga, Chemung, Greene, Schenectady, Schuyler, Seneca, Tompkins, Yates

Number of persons		1	2	3	4	5	6	7	8+
12 month	$120	120	120	125	131	140	150	160	

Counties of: Allegany, Broome, Cattaraugus, Chenango, Cortland, Delaware, Fulton, Jefferson, Madison, Montgomery, Otsego, Rensselaer, Saratoga, Schoharie, Steuben, Sullivan, Tioga, Warren, Washington, Wyoming

Number of persons		1	2	3	4	5	6	7	8+
12 month	$122	122	122	127	133	142	152	162	

Counties of: Clinton, Lewis, Oneida, St. Lawrence

Number of persons		1	2	3	4	5	6	7	8+
12 month	$122	122	122	127	133	143	153	163	

Counties of: Essex, Franklin, Hamilton, Herkimer

Number of persons		1	2	3	4	5	6	7	8+
12 month	$140	140	140	146	153	164	175	186	

III. DOMESTIC ENERGY COSTS

A. General Information

1. The TA budget does not include an allowance specifically intended to cover the costs associated with a recipient's domestic energy costs.

2. Districts must utilize the energy provider's average monthly billing amount to determine domestic energy costs for a **domestic energy account(s)**.

3. TA cases that only have domestic energy costs do not receive a fuel for heating allowance.

4. Utility service (electric and/or natural gas) is subject to Social Services Law (SSL) § 131-s.

5. Non-utility energy (other than electric and/or natural gas) is not subject to SSL § 131- s.

6. Non-utility domestic energy (such as propane (LP) used solely for cooking) is not considered an emergency need.

B. Calculation

1. To determine domestic energy costs for a domestic energy account, use the billing period of a non-heating month (June, July or August); or,

   The average of non-heating months (June, July and/or August)

2. When the billing of a non-heating month is not available, an estimated cost provided by the energy provider may be used.

3. The Home Energy Allowance (HEA) and/or Supplemental Home Energy Allowance (SHEA) cannot be used for the calculation of domestic energy usage.

IV. EMERGENCY ENERGY ASSISTANCE AND HOUSEHOLD TYPE

A. General Information

Procedures for providing emergency energy assistance vary depending on the type of emergency and the type of the household requesting emergency assistance. The remaining sections of this manual are based on the Household type, which is determined by the status of the customer of record.

B. There are three (3) household types:

1. TA Households

   a. TA households are those households where, at the time of request for emergency assistance:

      (1) The customer of record is in active receipt of TA; or,
      (2) The customer of record is a grantee not in receipt of SSI and is in receipt of TA for dependent children and the TA case is budgeted with a heating allowance; or,
      (3) The legal spouse of the NTA customer of record is in receipt of TA; or,
      (4) The customer of record is sanctioned but his or her spouse and/or children remain active on TA.

      Example: Eileen and her two children receive FA. Eileen pays separately for heat and utilities and is the customer of record for the combined heat and utility bill. Since the customer of record receives TA, this household is categorized as a TA household.

2. Non-Temporary Assistance (NTA) Households

   a. NTA households are those households where, at the time of the request (application) for emergency assistance:

      (1) The customer of record is not in receipt of TA or SSI; or, (2) The customer of record is not in receipt of SSI; or,
      (2) The customer of record is not in receipt of additional State Supplement Program (SSP) payments; or,
      (3) The customer of record is a grantee not in receipt of SSI and is in receipt of TA for dependent children and the TA grant is not budgeted with a heating allowance; or,
      (4) The customer of record is on a TA sanction and the TA case is closed because of the sanction (i.e., single individuals); or,
      (5) The customer of record is an applicant for TA.

   Example: Sue is applying for TA for herself and her three children. She is the tenant and customer of record. During her TA eligibility interview, Sue tells the worker that she has a utility shut-off. The worker determines that Sue is eligible for emergency assistance, categorizes the household as NTA and authorizes assistance through Emergency Assistance to Families (EAF) since Sue is not a TA or SSI recipient. The worker reviews the repayment agreement provisions and determines that Sue does not have to sign a repayment agreement because her income is below the TA standard of need, as outlined by the repayment agreement policy/procedures.

3. SSI Households

a. A SSI household is a household where, at the time of request for emergency assistance:

(1) The customer of record is in active receipt of SSI, or,
(2) The customer of record is in receipt of SSP payments.

Example: Jane is in receipt of SSI for herself. She resides with her spouse and minor child. Jane is the customer of record for both the heat and utility bills. Her spouse is the tenant of record. Jane has a shut-off notice from her utility company and comes into the district for assistance. Jane meets the customer of record requirement because she is the actual customer. She also meets the tenant of record requirement for application purposes because she is the spouse of the tenant and residing in the same household. Although both spouses could be considered to be customer and tenant of record, the household is an SSI household, rather than an NTA household because Emergency Assistance for Adults (EAA) must be utilized before any other category of assistance (see chart on the next page). The district determines that Jane is eligible for emergency assistance and authorizes a four- month arrearage payment. The payment is authorized as EAA. The district must issue the six-month guarantee due to Jane's status as a SSI recipient. The district determines that Jane is exempt from the repayment agreement because she is in receipt of SSI.

HOUSEHOLD TYPE

CUSTOMER OF RECORD	HOUSEHOLD TYPE
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 still 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 is 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 on TA but without a heating allowance in the TA grant	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 an SSI spouse who is the tenant of record	SSI – EAA Only

V. EMERGENCY ASSISTANCE – TA HOUSEHOLDS

A. Procedures for Utility (electric and/or natural gas) Heating and/or Domestic Energy Emergencies

1. The availability of HEAP must be explored prior to authorizing any TA payment to avert a utility disconnect.

2. A LDSS-3815 "Request for and Additional Allowance and/or other Help by a Temporary Assistance Recipient" must be completed in person or by phone. See 02-ADM-02.

3. When recipient's contacts the district with a utility disconnect notice, the district must determine if the emergency is an immediate need. See 02 ADM-02 or TASB Chapter 11 for more information on immediate need.

4. Payments may be made when such payment is essential to continue or restore service (in accordance with Social Services Law § 131-s).

5. Districts must not authorize an arrears payment that would duplicate a period of time for which a utility payment has already been authorized to the utility company.

6. Districts must determine if the pursuance of a Deferred Payment Agreement (DPA) with the utility company is viable.

7. Districts may consider rehousing. The district must ensure that any housing resource is viable and actually available to meet the housing needs of the household. 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 05TA/DC048.

8. TA sanctions are not applicable to utility emergencies.

B. Payment Limits

1. Arrears Payments for utility emergencies are limited to the **lesser of**:

   a. The cost of utilities (actual or estimated) provided to the recipient for the four (4) most recently completed monthly billing periods or two (2) most recently completed bi-monthly billing periods for service rendered in the previous ten (10) months immediately preceding the request for assistance made using the LDSS-3815.

      NOTE: The calculation of the arrears payment starts with the date the recipient requests an additional allowance on the LDSS-3815. For more information, see 02 ADM-02.

      OR

   b. The balance due on the account if the balance due is not based on budget billing. A budget bill is based on a utility company's assessment of a household's average usage over the course of a year. It is designed to simplify payment and billing, and is not intended to reflect the customer's usage at a specific time or billing period.

      If the balance due is based on budget billing, arrears must be calculated as described in section a. (above).

C. Prohibited Payments

1. Districts must **not** pay for utility emergencies in accordance with the above arrears payment limits in the following situations:

   a. When the recipient did not meet the customer and tenant of record criteria during the arrears period. The district can only authorize a payment for that portion of the arrears that the recipient was customer and tenant of record.

   b. When there is a shared meter situation (see **Shared Meter/Shared Fuel Situations** section of this Manual), the district must limit payment to the recipient's proportionate share of the arrears.

   c. Payment must not be made for service rendered to the recipient more than ten (10) monthly or five (5) bi-monthly billing periods immediately preceding the request for such assistance made using the LDSS-3815 "Request for an Additional Allowance and/or other Help by a Temporary Assistance Recipient ". This form may be completed in person or by phone. See 02 ADM-02.

   d. When arrears are in dispute and a complaint has been filed with the energy provider or Public Service Commission (PSC) regarding these arrears, the district must not make arrears payment.

   e. An account termination issued by an Energy Services Company (ESCO) is not considered a shut-off for the purposes for emergency TA. In cases where an ESCO terminates the customer's account, the customer's utility service is then provided by the designated provider of last resort (generally a PSC regulated energy provider). Only the provider of last resort may actually issue a utility termination notice.

D. Calculation of Arrears Payments

The following action must be taken to determine the amount of an arrears payment:

1. Determine if the household is in a shared meter situation. Districts must follow the procedures outlined in the **Shared Meter/Shared Fuel Situations** section of this Manual.

2. Determine the cost of service (actual or estimated) provided to the recipient during the most recently completed four (4) monthly or two (2) bi-monthly completed billing periods for service rendered immediately preceding the request for an additional allowance on the LDSS-3815 "Request for an Additional Allowance and/or other Help by a Temporary Assistance Recipient". The calculation must include the current bill that has been issued, but may not yet be past due, in the arrears calculations.

3. Service periods need not be continuous within the most recent ten (10) monthly or five (5) bi-monthly billing cycle periods. However, the total payment must not exceed the cost of service for the most recent four (4) monthly or two (2) bi-monthly periods.

4. Apply all available resources against the calculated arrearage amount. Available resources must be used to reduce the amount of payment authorized by the district to meet the emergency. Failure to apply available resources results in ineligibility for energy assistance.

5. Deduct any payments, excluding HEAP, made during the arrears payment period for which the household was in receipt of TA. For TA households, in accordance with 18 NYCRR § 351.9(a)(2), payments must not be made which duplicate assistance granted.

   For TA households, it is important to distinguish when the personal payment was made, rather than to what period the utility vendor applied the payment. It is necessary for the district to determine if a TA payment has been made to the utility during the arrears period and if so, to deduct that amount from the total paid so as to prevent the duplication of assistance.

6. Determine the balance due on the recipient's utility bill (actual or estimated) unless the recipient is enrolled in budget billing. If the balance due is based on budget billing, then the calculated arrears (see #2 above) amount is used.

7. Districts are required to pay any applicable sales tax when making arrears payments to an energy provider on behalf of a TA recipient.

8. Districts must not pay miscellaneous charges such as late payment charges; reconnect fees, Marshall's fees, deposits, no-access fees, on-bill financing charges, etc.

9. Authorize a payment for the lesser of the balance due or the calculated arrears amount unless the recipient is enrolled in budget billing.

10. If the calculated arrears equal $0, no payment is authorized. However, the district may still issue a six-month guarantee in order to restore service. (See Prospective Responsibility)

11. Payment must be based on the arrears calculation methodology, not on the shut-off amount.

12. Districts must not pay a down payment or an amount equivalent to a down payment.

NOTE: Each PSC regulated utility has a PSC approved tariff which dictates how that utility company applies customer payments. In accordance with these PSC approved tariffs, personal payments made by individuals not on guarantee to his or her utility company are not required to be applied to current bills, but may be applied by the utility company to the oldest utility arrears.

E. Authorization of Arrears Payment

1. Districts must authorize payment through the recipient's category of assistance FA or SNA in one of the following ways.

    a. As a non-recoverable payment if the recipient passes the management test, or,
    b. As a recoverable payment (advance allowance) if the recipient fails the management test as prescribed in section F below, provided the recipient has made a request in writing for such an allowance and has also made a written request that the TA grant be reduced to recover the payment.
    c. The rules and procedures governing recoupment (18 NYCRR § 352.11) are applicable in these cases.

F. Management Test

1. Districts must apply and document in the case record the management test for the period covered by the arrears payment. If a recipient was not in receipt of TA for the entire period covered by the arrears payment, districts must only apply the management test to that portion of the payment period that the recipient was in receipt of TA.

2. If the recipient fails the test, the entire amount of the arrears payment is recoverable by recoupment or any other means available to the district.

3. If the recipient passes the test, the entire amount of the arrears payment is not subject to recovery (including recoupment).

4. Management test:

   a. A "no" answer to any of the steps below results in the determination that mismanagement exists.

   b. Step 1 – is there proof of payment of an amount at least equal to the combined HEA and SHEA, budgeted in the grant, towards the domestic energy costs?
      Yes _ No ____

   c. Step 2 – is there proof of payment of an amount at least equal to the monthly fuel allowance budgeted in the TA grant towards the heating costs (if applicable)?
      Yes _ No ____

   d. Step 3 – is there proof of payment of an amount at least equal to the monthly shelter allowance, budgeted in the TA grant, towards the shelter costs?
      Yes _ No ____

G. Payment Type Coding

1. Districts must authorize a payment using Welfare Management System (WMS) payment type “60-Emergency Utility Payment to Prevent Shut-Off or Restore Service” for Rest of State and as appropriate in NYC.

H. Prospective Responsibility

1. When a district has authorized an arrears payment for a TA household, either as a non-recoupable grant or as a recoupable payment (additional allowance), the district must also guarantee payment of the recipient's future utility bills. See Section VI.I. Methods for Meeting Prospective Responsibility.

2. The district must guarantee the TA recipient's future utility bill for the following six months or until the district notifies the utility company that the TA recipient's case has closed, whichever occurs first.

3. The time frames for TA household type prospective responsibility are as follows:

   a. The six-month period may be (3) bi-monthly or six consecutive (6) months following the arrears payment period or until the district notifies the utility company that the TA recipient's case has closed whichever occurs first.

   b. The period of prospective responsibility begins immediately following the last period covered by the arrears payment period.

   c. If no arrears payment can be made and service is restored, prospective responsibility begins on the date that service is restored.

4. Notice of Non- Payment from Energy Provider

   a. If the district receives a notice of non-payment from an energy provider due to a TA recipient's non- payment, the district should attempt to contact the recipient to encourage payment of the bill.

   b. The district must deduct any payment made by the TA recipient on his or her utility bill during the guarantee period from the guarantee amount the district pays to the utility.

   c. The district must use WMS Payment Type "13-Guaranteed Utility Account Payment" when authorizing a TA payment to cover the arrears accumulated during the guarantee period.

   d. Districts should be aware of local energy provider late fee policies and should make every effort to make payment on guaranteed accounts in order to avoid such late fees.

   e. The district must use any payment issued by the district for the guarantee period in the reconciliation calculation.

   f. Once the 131-s TA utility arrears payment is made, all prior arrears are suspended and any subsequent TA payment made for utilities while the client is in receipt of TA or SSI should be applied by the utility company to the current bill.

5. Notice Requirements

   a. The district must provide the LDSS-4002 “Action Taken On Your Request for Assistance to Meet an Immediate Need or a Special Request” to the TA household regarding how his or her immediate or emergency need will be met.

   b. The district must provide the energy provider with a "Notice of Utility Related Action" letter (See Attachment A Section of this manual) to notify the energy provider of the beginning and end dates for the prospective responsibility and the method that will be utilized to meet the prospective responsibility.

   c. A district is not required to provide an additional notice to the energy provider when the guarantee/restricted payment expires at the end of the period of prospective responsibility, because the end date of the prospective responsibility has been previously noted in the "Notice of Utility Related Action" letter.

   d. The district must provide a "Notice of Utility Related Action" (see Attachment A section of this Manual) to the energy provider as soon as possible if the TA case closes prior to the expiration date of the prospective responsibility period.

   e. The district must issue a "Notice of Utility Related Action" letter to the energy provider informing them that the TA recipient’s benefits including guarantee period have been terminated no later than fifteen (15) days from the date of TA discontinuance. The district’s responsibility to guarantee a utility payment does not terminate until the utility provider is notified that the guarantee period has ended. Therefore, if the district notifies the utility provider that the guarantee period has ended after the recipient’s TA cases is discontinued, then the district is still responsible to pay the utility bill during the guarantee period. Any payments made to the utility as part of a guarantee period after the TA case is discontinued is an overpayment.

   f. Districts must retain copies of all "Notice of Utility Related Action" letters in the recipient's case record.

I. Client Notice System (CNS) Rest of State (ROS)-Only Outside of NYC

1. Districts have the option under CNS to provide fuel/utility vendors with a system-generated letter that informs vendors that at TA recipient's indirect fuel and/or utility payments are initiated or terminated.

2. The CNS option replaces the "Notice of Utility Related Action" letter ONLY for notifying the vendor that the TA recipient's indirect fuel and/or utility payments are terminated at case closing. Districts must use the "Notice of Utility Related Action" letter to notify energy providers of utility arrears payments, initiation of guarantee, termination of guarantee and mandated SNA utility restriction.

3. Letters to fuel/utility vendors will be produced and mailed via CNS concurrent with CNS approval notices when the following criteria is met:

   a. The district has selected this option. A district must notify OTDA Welfare Management System (WMS) staff that they want to participate in this process. districts currently participating in this option do not need to take additional action to continue participating. Districts who wish to participate or to make changes to their current CNS notice criteria set up must call CNS at: (518) 473-0724.

   b. Payment Type equal to any of the following values: E6, E7,11, 12, 23, 28, 58, 59 and 63

   c. Payment FROM date is greater than or equal to the TA authorization FROM date

   d. Vendor ID is not blank

4. Letters to fuel/utility vendors terminating indirect payments when a TA case closes will be produced and mailed concurrent with CNS closing notices. For more information, see Dear CNS Coordinator Letter, February 17, 1999.

5. CNS does not support a notice to the vendor that a TA recipient's indirect fuel and/or utility payment is terminated when there are any differences between the termination notice effective date and the calendar date through which the vendor must receive payment. The district must send the energy provider a "Notice of Utility Related Action" letter.

6. CNS is not available to inform vendors that a TA recipient's indirect fuel and/ or utility payments are initiated or terminated when a district processes a change transaction.

7. Districts not opting to use the available CNS vendor letter to inform vendors that a TA recipient's indirect fuel and/ or utility payments are terminated must use the "Notice of Utility Related Action" letter.

8. For more information on terminating indirect payments to energy providers see GIS 04TA/DC022.

J. Methods for Meeting Prospective Responsibility

1. A district must meet prospective responsibility in one of three ways:

   a. Administrative Ease Grant restriction

      When districts authorize the arrears payment as an advance allowance subject to recoupment, the district must restrict the recipient's utility bill using administrative ease, in accordance with procedures outlined in the **Methods of Payment** section of this Manual.

2. Letters of Guarantee

   a. A letter of guarantee to the energy provider is a method districts may use to assure prospective payment of the recipient's utility bill.

   b. The "Notice of Utility Related Action" letter is the letter of guarantee.

   c. The district notifies the utility of the guarantee details including the beginning and end date of the guarantee period by completing a "Notice of Utility Related Action" letter. (See Attachment A Section of this Manual)

   d. Under this methodology, the recipient retains responsibility for the bill.

   e. If the recipient fails to pay the bill during the period of guarantee, the energy provider will not issue a termination notice. Instead, the energy provider issues a "Notice of Non-Payment" to the recipient and to the district.

   f. Upon receipt of the "Notice of Non-Payment", the district should attempt to contact the recipient to encourage payment of the bill.

   g. If the recipient fails to make payment, the district must then authorize a payment to cover the arrears accumulated during the guarantee period.

   h. Any payment issued by the district for the guarantee period is used in the energy reconciliation calculation.

3. Districts should be aware of local energy provider late fee policies and should make every effort to make payment on guaranteed accounts in order to avoid such late fees.

   a. A Combination of Restricted Payment and Letter of Guarantee

      (1) A combination of restricted payment and a letter of guarantee are used when a district pays an energy provider a specific amount for the energy cost and the client is responsible to pay any energy cost exceeding the restricted amount.

      (2) A letter of guarantee must be used to guarantee the amount in excess of the restricted payment.

(3) The amount of payment authorized in excess of the restricted amount is subject to recoupment.

(4) District payments for the guarantee period are authorized with WMS payment type “13-Guaranteed Utility Account Payment”.

(5) For information on eligibility requirements and documentation for emergencies, please reference the TASB Chapter 11.

4. Procedures for After the Prospective Responsibility Period

a. After the prospective period has expired, the district must explore the need for ongoing restricted payments. For more information on restricted payments, see the Methods of Payment section of this manual.

K. Recovery of Energy Assistance Granted to TA Household

1. Payments made on guarantee accounts are overpayments subject to recovery including recoupment.

   a. Adequate and timely notice must be provided to the recipient prior to initiating the recoupment.

2. Any payment made for the period after the effective closing date of the TA case is subject to recovery.

3. TA households are not subject to utility repayment agreements. See 09 ADM-17 for more information on utility repayment agreements.

4. In accordance with Social Services Law §106, districts are authorized to pursue a real property lien to offset a utility repayment agreement

Example:

Ms. Smith and her four children are FA recipients. Ms. Smith heats with electricity and resides in a private rent situation. On January 20th, Ms. Smith comes into the agency to report that her utility service is scheduled for disconnection. Ms. Smith completes an LDSS-3815 "Request for an Additional Allowance and/or Other Help by a Temporary Assistance Recipient" form. The worker verifies that Ms. Smith is the tenant and customer of record and that Ms. Smith does not live in a shared meter situation. The worker reviews the shut-off notice and notes that the shut-off amount is $854.25 and that the shut-off is scheduled for the next day; the emergency is an immediate need.

The worker then contacts the utility company for a billing history. Of the last 10 billing cycles, the most recent four months of completed billing cycles are January 12th through May 12th totaling $755.22. The client has made two payments during this period totaling $100. Ms. Smith has $50 in available resources. The balance due on the account is $1,245.96. Regular and Emergency HEAP are not available. The worker calculates that the arrears payable by the district on behalf of the recipient are $605.22 ($755.22 less $100 in payments, less $50 to be paid by Ms. Smith).

Since Ms. Smith has failed to pay an amount equal to her fuel for heating allowance and her monthly utility bill to her utility company, she has failed the management test. The district will authorize a recoupable payment (advance allowance) to the utility company on her behalf after Ms. Smith has given her permission in writing to do so. Ms. Smith's future TA grant is restricted as a guarantee to pay future utility payments directly to the utility company for the billing periods of May 12th to the end of the completed billing period, which includes November 12th. The worker provides the utility with the Notice of Utility Related Action, gives Ms. Smith the LDSS-4002 telling her how the immediate need will be met and provides timely and adequate notice to initiate the grant restriction. For more information on restricted payments, see the **Methods of Payment** section of this Manual.

L. TA Households Procedures for Non-Utility (other than electric and natural gas) Heat Only Emergencies

1. The LDSS-3815 " Request for and Additional Allowance and/or other Help by a Temporary Assistance Recipient " must be completed in person or by phone when a TA recipient contacts the district to report that they are out or low on non-utility heating fuel, such as oil, propane, kerosene, wood, etc. See 02 ADM-02.

2. Districts must first explore the availability of HEAP to meet the emergency.

3. The district must make a payment, if the recipient is otherwise eligible, to obtain the necessary delivery of non-utility heating fuel.

4. TA sanction provisions are applicable to non-utility emergencies.

5. Management test provisions do not apply to non-utility heat only emergencies.

6. Authorized payment(s) made to obtain non-utility energy for a TA household are recoupable payment (advance allowance).

7. Payments for non-utility heat emergencies for TA households are not subject to a utility repayment agreement.

8. Districts are authorized to pursue a real property lien to recover payments made to meet non-utility energy emergencies for TA households.

9. Any payment issued by the district for the non- utility heat only emergency is used in the reconciliation calculation.

10. Prospective responsibility provisions do not apply when authorizing non-utility emergency payments. Therefore, a district must not authorize a guarantee period when a payment is made for non- utility heat only emergency.

11. Payment Limits

    During periods of cold weather, as determined by the district, the district must authorize a non-utility heating payment when no alternative payment or housing accommodations are available and there are no available resources to pay for the emergency.

12. Calculation of Payment

    a. If the household is in a shared fuel situation districts must follow the procedures outlined in the **Shared Meter/Shared Fuel Situations** section of this Manual.

    b. The payment for a non-utility emergency is limited to the costs for energy to meet the heating emergency.

c. All available resources must be applied against the amount required to resolve the emergency. Failure to apply available resources results in ineligibility for assistance.

13. The district is **tax exempt** when making payment to an energy provider for delivery and/or service ordered by and billed directly to the district.

14. Districts must make payment on charges such as special delivery fees, deposits, etc., if essential to meet the emergency **and** when other alternatives are not available.

15. Authorization of Non-Utility Heating Payment a. WMS Payment Type "N1-Fuel"

16. Restricted fuel for heating payments.

    a. See the **Methods of Payments** section of this Manual for further information on the need for restricted payments.

Example:

Ms. Green and her daughter are FA recipients. She calls the agency and tells her worker that she is out of fuel oil. Since it is during the district's cold weather period, Ms. Green may be eligible for emergency assistance. The worker completes the request for an additional allowance (LDSS-3815) over the phone. The worker determines that Ms. Green is the tenant and customer of record. The worker contacts the fuel dealer and determines that Ms. Green has not had a delivery in two months and is out of fuel oil. Ms. Green's fuel emergency is an immediate need.

The fuel dealer agrees to immediately supply Ms. Green with a minimum delivery of fuel oil for $500. Ms. Green has no available resources available to meet the need. Regular and Emergency HEAP have been exhausted. The worker authorizes a recoupable payment (advance allowance) for this amount. (Ms. Green has given her written permission to recoup this payment [advance allowance] from her grant.)
There is no prospective responsibility in this case. There is no management test completed in this situation.

The worker provides Ms. Green with a DSS-4002 telling her how the immediate need is to be met and the completed LDSS-3815. Ms. Green's fuel for heating allowance is restricted from the TA budget. The worker must provide Ms. Green with timely and adequate notice regarding this restriction. For more information on restricted payments, see the **Methods of Payments** section of this Manual.

VI. EMERGENCY ASSISTANCE – NON-TEMPORARY ASSISTANCE HOUSEHOLDS

A. Procedures for Utility (electric and natural gas) Heating and/or Domestic Energy Emergencies

1. When a Non-TA household applicant contacts the district with a utility disconnect notice or is disconnected, the district must determine if the emergency is an immediate need. See 02 ADM-02 or TASB Chapter 11 for more information on immediate needs.

2. In order to apply for assistance meeting an emergency or immediate need, an NTA applicant must complete, sign, and submit a TA application.

3. Payments are made when such payment is essential to continue or restore service (in accordance with Social Services Law § 131-s).

4. Districts must not authorize an arrears payment that would duplicate a period of time for which a utility payment has already been authorized.

5. Districts must authorize payment through the recipient's category of assistance, EAF or Emergency Safety Net Assistance (ESNA). See the Temporary Assistance source book for EAF and ESNA program requirements.

6. ESNA 125% income provision does not apply to utility emergencies.

7. Management Test provisions do not apply to NTA households.

8. TA Sanction provisions do not apply to utility emergencies.

B. Payment Limits Payments for Utility Emergencies are limited to the lesser of:

1. The cost of utilities (actual or estimated) for the 4 most recently completed monthly billing periods, or most recent bi-monthly completed billing periods for service rendered immediately preceding the date of application for assistance (LDSS-2921), or,

2. The balance due on the utility bill (actual or estimated) if the balance due is not based on budget billing. A budget bill is based on a utility company's assessment of a household's average usage over the course of a year. It is designed to simplify payment and billing, and is not intended to reflect the customer's usage at a specific time or billing period.

   If the balance due is based on budget billing, arrears must be calculated as described in section 1 (above).

   NOTE: The calculation of the arrears payment starts with the date the applicant submits a LDSS-2921.

C. Prohibited Payments

Districts must **not** pay for utility emergencies in accordance with the above payment limits in the following situations.

1. When the applicant did not meet the customer and tenant of record criteria for the entire period, the district shall authorize a payment for that portion of the arrears when the applicant was both the customer and tenant of record.

2. When there is a shared meter situation (see **Shared Meter/Shared Fuel Situations** section of this Manual); the district must limit payment to the applicant's proportionate share of the arrears.

3. When arrears are in dispute and a complaint has been filed with the energy provider or PSC regarding these arrears, the district must not make an arrears payment.

D. An account termination issued by an **ESCO** is not considered a shut-off for the purposes of emergency assistance. In cases where an ESCO terminates the customer's account, the customer's utility service is then provided by the designated provider of last resort (generally a PSC regulated energy provider). Only the provider of last resort may actually issue a utility termination notice.

E. Calculation of Arrears Payments

The following steps must be taken to calculate an arrears payment.

1. Determine if the household is in a shared meter situation. Districts should follow the procedures outlined in the **Shared Meter/Shared Fuel Situations** section of this Manual. If the household is not in a shared meter situation, continue as described below.

2. Determine the cost of utilities (actual or estimated) for the 4 most recently completed monthly billing periods, or 2 most recent bi-monthly completed billing periods for service rendered immediately preceding the date of application for assistance (LDSS-2921).; or the balance due on the utility bill unless the recipient is enrolled in budget billing.

3. If the balance due on an account is based on budget billing, then the calculated arrears (see #2 above) amount is used.

4. Districts must include a current bill that has been issued, but is not yet past due, in the arrears calculation.

5. Do NOT deduct any personal payments made by the household during the arrears payment period, HEAP payments, or NTA other payments (such as an aunt paid a bill) when calculating the arrears payment.

   NOTE: Payments must be applied by the utility company in accordance with his or her PSC approved tariff. These tariffs tend to permit the application of payments to the oldest amount a customer owes.

   If the arrears that the utility company applied the payment to were from a period prior to the energy emergency arrears period, the customer still owes the full amount of the arrears that fall within the energy emergency arrears period. In such cases, it would not be appropriate to deduct the payment from the four-month arrearage calculation. If the district deducts the payment from the total cost of service provided in the energy emergency arrears period, and the utility had applied that payment to an amount owed prior to the arrears period, the district would not be paying the total cost of service in the four months prior to the request for assistance.

   If the arrears that the utility company applied the payment to were from a period during the energy emergency arrears period, that amount will have already been deducted by the utility from the bill, and therefore, would not be reflected in the utility bill as an amount that is owed.

   In either case, it is not necessary for the district to manually deduct the payment from the arrearages to be paid.

   The New York State HEAP vendor agreement for Public Service Regulated utilities requires that HEAP benefits will be credited to the customer's current account to provide future utility service. Payments to accounts held in abeyance are not permitted.

6. Deduct any TA payments paid directly to the utility company during the arrears period (so as not to duplicate assistance granted).

7. Apply all available resources against the calculated arrears amount. Available resources must be used to reduce the amount of the payment authorized by the district to meet the emergency. Failure to apply available resources results in ineligibility for assistance.

8. Districts are required to pay any applicable sales tax when making arrears payments to an energy provider on behalf of a non-TA household recipient.

9. Districts must not pay miscellaneous charges such as late payment charges; reconnect fees, Marshall's fees, deposits, on-bill finance charges, etc.

10. Determine the balance due on the recipient's utility bill account (actual or estimated).

11. If calculated arrears equal $0, no payment is authorized.

12. Districts must not pay the shut-off amount or an amount equivalent to a down payment.

F. Authorization of Arrears Payment

1. Districts must determine under what emergency program the arrears payment will be authorized.

    a. Utility arrears assistance is provided on behalf of NTA households through EAF or ESNA. See the Temporary Assistance Source Book for EAF and ESNA program requirements.

    b. The ESNA eligibility standards do not apply to assistance granted under 18 NYCRR § 352.5 (c-e).

G. Prospective Responsibility

The district has no prospective responsibility for utility assistance for NTA households.

H. Utility Repayment Agreements for NTA Households

1. Certain NTA households must sign a 24-month repayment agreement as a condition of receiving utility arrearage assistance to prevent a shut-off or restore utility service when:

   a. The customer and tenant of record is not categorized as a TA or SSI household at the time of request for emergency assistance; and,

   b. The household's gross monthly income on the date of application exceeds the TA standard of need for that household size.

2. If the district determines that the household's gross monthly income does exceed the TA standard of need, a Repayment Agreement is required whether the utility arrears are paid under EAF or under ESNA.

3. Recipients of recurring TA are not required to sign a Repayment Agreement for utility payment assistance.

4. Recipients of SSI (or additional State SSI payments) are not required to sign a Repayment Agreement for utility payment assistance.

5. For instructions on utility arrears repayment agreements, see 96 ADM-9 and 09-ADM-17.

6. To receive subsequent utility arrears payments, the household must have repaid the previous agreement or be current on that repayment agreement.

7. In the case of a person with a court ordered bankruptcy discharge of debt which lists the district arrearage payment as a discharge debt, the person is not considered eligible for another utility arrears grant.

   Repayment of a utility arrears grant pursuant to a repayment agreement is a condition of eligibility for any future grant for utility arrears. While discharge of debt in bankruptcy ends a persons' obligation to repay the debt it would not affect a persons' eligibility for a future grant of utility arrears. A district could not pursue collection of a debt that has been discharged in bankruptcy, but the bankruptcy gives the district no authority to pay a future grant in contravention of 18 NYCRR 352.5(e).

8. In accordance with 09 ADM-17, districts may elect to suspend the enforcement of previous and new repayment agreements during the PSC cold weather period which runs from November 1st of each year and ends April 15th of the following year. In districts electing to suspend repayment agreements during the PSC cold weather period, the terms of any new repayment agreements begin on April 16th. For any previous repayment agreements, the terms of the prior repayment agreements resume on April 16th.

I. Notice Requirements

1. The district must provide the LDSS-4002 “Action Taken On Your Request for Assistance to Meet an Immediate Need or a Special Request” to the TA household regarding how his or her immediate or emergency need will be met. For more information, see 02 ADM-02.

2. The district must provide the energy provider with a "Notice of Utility Related Action" form (see Attachment A section of this Manual) to notify the energy provider of the beginning and end dates for the prospective responsibility and the method that will be utilized to meet the prospective responsibility. Districts must retain a copy of the form in the recipient's case record.

J. Examples:

EAF Example of NTA Calculation

Mr. McCrea and his four children heat with electricity and reside in a private rent apartment. Mr. McCrea applies for emergency assistance because his utility service is scheduled for disconnection. He states that he only has $50 in available liquid resources.

The worker verifies that Mr. McCrea is:

- The tenant and customer of record.
- Not living in a shared meter situation.

The worker reviews the shut-off notice and sees that the shut-off is scheduled for the next day and the amount due is $854.25. The emergency is an immediate need. The worker contacts the utility company for a billing history and determines the following:

- The four completed billing cycles immediately preceding the request for assistance are January 12th through May 12th, which total $755.22.
- Mr. McCrea has made two payments during this period totaling $100, one for $70.00 on February 3rd, and one for $30.00 on March 15th.
- The balance due on the account is $1,245.96.
- Regular and Emergency HEAP are not available.
- The district referred Mr. McCrea to the utility company to negotiate a DPA. Mr. McCrea attempted to negotiate a DPA as required, but could not get one from the utility company.
- The district determines that rehousing is not appropriate for this household.

The worker calculates the arrears payable by the district on behalf of the recipient to be $705.22 ($755.22 represents the last four billing cycles, minus the $50 to be paid by Mr. McCrea). The payment will be authorized under EAF. Mr. McCrea's gross monthly income exceeds the TA standard of need for his household size, so he will be required to sign a repayment agreement.

The worker provides the utility company with the Notice of Utility Related Action, and gives Mr. McCrea a LDSS-4002 telling him how the immediate need will be met. Please see the appendix for copies of the Notice of Utility Related Action and the LDSS-4002, "Action Taken On Your Request for Assistance to Meet an Immediate Need or a Special Request".

Example of ESNA

Ms. Williams is applying for TA because her utility service is scheduled for disconnection. She is in receipt of UIB in the amount of $325 a week. She heats with electricity and has just paid her rent of $750. She states she has $50 in available liquid resources. Her next UIB payment will not arrive for 6 days.

The worker verifies that Ms. Williams is:

- The tenant and customer of record.
- Not living in a shared meter situation.

The worker determines that Mrs. Williams is eligible for ESNA to meet the household's utility emergency. The household's income is over 125% of ESNA standards of $1216 per month for a household of 1. The ESNA eligibility standards do not apply to assistance granted under 18 NYCRR § 352.5(c-e). There is no means tested income standard for emergency energy assistance. Applicants must use any available income and any available resources to reduce or meet the need, and Ms. Williams's available income and resources are insufficient to meet her need.

The worker reviews the shut-off notice and notes that the amount due is $854.25 and that disconnection is scheduled for the next day. The emergency is an immediate need. The worker then contacts the utility company for a billing history and determines the following:

- The most recent four completed billing cycles are January 12th through May 12th, which total $755.22.
- Ms. Williams has made two payments during this period totaling $100, one for $70.00 on February 3rd, and one for $30.00 on March 15th, leaving a balance due on the account of $1,245.96.
- Regular and Emergency HEAP are not available.
- She was unable to make a deferred payment arrangement.
- The district determines that rehousing is not appropriate for this household.

The worker calculates the arrears payable by the district on behalf of the recipient to be $705.22 ($755.22 represents the last four billing cycles, minus the $50 to be paid by Ms. Williams). The payment will be authorized under ESNA. Ms. Williams's gross monthly income exceeds the TA standard of need for her household size, so she will be required to sign a repayment agreement.

The worker provides the utility company with the Notice of Utility Related Action, and gives Ms. Williams a LDSS-4002 telling her how the immediate need will be met.

K. Non-TA Household Procedures for Non-Utility (other than electric and natural gas) Heat Only Emergencies

1. When an NTA household contacts the district to report that they are out or low on non-utility heating fuel (such as oil or propane), the district must make a payment, if the recipient is otherwise eligible, to obtain the necessary delivery of non-utility heating fuel.

2. In order to apply for assistance to meet an emergency or immediate need an NTA applicant must complete, sign, and submit a TA application.

3. The district must authorize a payment when such payment is necessary for the household's residential heating purposes and no alternative payment or housing accommodations are available.

4. Districts may consider rehousing. The district must ensure that any housing resource is viable and actually available to meet the housing needs of the household. 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 05TA/DC048.

5. A payment to meet a Non-Utility Heat Only Emergency may be authorized only during periods of "cold weather" as defined by the district.

6. Non-utility domestic energy emergencies are not subject to SSL §131-s requirements.

7. Non-utility Domestic Energy needs cannot be considered an emergency; i.e., household only cooks with propane.

8. Districts must authorize payment through the recipient's category of assistance EAF or ESNA. See the Temporary Assistance source book for EAF and ESNA program requirements.

9. The ESNA 125% income provision does not apply to utility emergencies.

10. The Management Test provisions do not apply to NTA households.

11. TA Sanction provisions are applicable to non-utility emergencies.

12. For information on eligibility requirements and documentation for emergencies, please reference the TASB Chapter 11 and 02 ADM-02.

13. Payment is limited to the costs of energy to meet the emergency, including fees, deposits, etc.

14. Calculation of payment

    a. The household is in a shared fuel situation, districts must follow the procedures outlined in the **Shared Meter/Shared Fuel Situations** section of this Manual.

    b. The payment for a non-utility emergency is limited to the costs for energy to meet the emergency including fees, deposits, etc.

    c. All available resources must be applied against the amount required to resolve the emergency. Failure to apply available resources results in ineligibility for assistance.

    d. The district is sales tax exempt when making payment to an energy provider for delivery and/or service ordered by and billed directly to the district.

    e. Districts must make payment on charges such as special delivery fees, deposits; etc., if essential to meet the emergency and when other alternatives are not available.

    f. WMS Payment Type "N1-Fuel"

15. Districts may authorize non-utility payments on an active NTA -Supplemental Nutrition Assistance Program (SNAP) case, an active Medicaid case or at the time of a TA application denial in accordance with 03 ADM-08.

16. Prospective Responsibility – districts have no prospective responsibility.

17. Repayment Agreement – there is no repayment agreement requirement when authorizing non-utility emergency payments.

Example:

Ms. Green and her daughter are not in receipt of TA or SSI. Ms. Green comes into the agency and states that she is out of fuel oil. Since it is during the district's cold weather period, Ms. Green may be eligible for emergency assistance. The worker determines that Ms. Green is the tenant and customer of record. The worker contacts the fuel dealer and determines that Ms. Green has not had a delivery in two months and is out of fuel oil. Ms. Green's fuel emergency is an immediate need.

The fuel dealer will supply Ms. Green a minimum delivery of fuel oil for $500. Alternative payment arrangements are not feasible. Ms. Green has $50 in available resources available to meet the need. Regular and Emergency HEAP have been exhausted. The worker will authorize an EAF payment for $450 to meet Ms. Green's emergency need. Ms. Green is not required to sign a repayment agreement. The worker provides Ms. Green with a DSS-4002 telling her how the immediate need is to be met.

VII. EMERGENCY ASSISTANCE – SSI HOUSEHOLDS

A. Procedures for Utility (electric and natural gas) Heating and/or Domestic Energy Emergencies

1. When an SSI (or SSP) recipient contacts the district with a utility disconnect notice, the district must determine if the emergency is an immediate need and take appropriate action. See 02 ADM-02 and TASB Chapter 12 section for more information on immediate needs.

2. In order to apply for assistance to meet an emergency, an SSI applicant must complete, sign, and submit a TA application.

3. Payments are made when such payment is essential to continue or restore service (in accordance with Social Services Law § 131-s).

4. There is no management test.

5. Payments for utility emergencies are limited to the **lesser of**:

   a. The cost of utilities for the 4 most recently completed monthly, or 2 most recently completed bi-monthly completed billing (actual or estimated) periods for service rendered in the previous 10 months immediately preceding the date of application for assistance (LDSS-2921); or,

   b. The balance due on the account if the balance due is not based on budget billing. A budget bill is based on a utility company's assessment of a household's average usage over the course of a year. It is designed to simplify payment and billing, and is not intended to reflect the customer's usage at a specific time or billing period.

   If the balance due on the account is based on budget billing, the arrears must be calculated as described in section a. (above).

   NOTE: The calculation of the arrears payment starts with the date the applicant submits a LDSS-2921.

6. Prohibited Payments- districts must **not** pay for utility emergencies in accordance with the above payment limits in the following situations:

   a. When the SSI recipient did not meet the customer and tenant of record criteria for the entire period. The district can only authorize a payment for that portion of the arrears that the SSI recipient was both the customer and tenant of record.

   b. Districts must not authorize an arrears payment that would duplicate a period of time for which a TA utility payment has already been authorized.

   c. When there is a shared meter situation (see **Shared Meter/Shared Fuel Situations** section of this Manual), the district must limit payment to the SSI recipient's proportionate share of the arrears.

d. When arrears are in dispute and a complaint has been filed with the energy provider or PSC regarding these arrears, the districts must not make an arrears payment.

e. An account termination issued by an ESCO is not considered a shut-off for the purposes for emergency assistance. In cases where an ESCO terminates the customer's account, the customer's utility service is then provided by the designated provider of last resort (generally a PSC regulated energy provider). Only the provider of last resort may actually issue a utility termination notice.

7. Calculation of Arrears Payments

a. Determine if the household is in a shared meter situation. districts must follow the procedures outlined in the **Shared Meter/Shared Fuel Situations** section of this Manual. If the household is not in a shared meter situation, continue as described below.

b. Determine the cost of utilities (actual or estimated) for the 4 most recently completed monthly, or 2 most recently completed bi-monthly billing periods for service rendered in the previous 10 months immediately preceding the date of application for assistance (LDSS-2921).

c. Districts must include a current bill that has been issued, but is not yet past due, in the arrears calculation.

d. Service periods need not be continuous within the most recent ten (10) monthly or five (5) bi-monthly billing cycle periods. However, the total payment must not exceed the cost of service for the most recent four (4) monthly or two (2) bi- monthly periods.

e. Districts must not deduct any HEAP payments made to the utility on behalf of SSI households. Districts must not deduct any personal payments made to the utility by the SSI household. These payments must be applied by the utility company in accordance with his or her PSC approved tariff. These tariffs tend to permit the application of payments to the oldest amount a customer owes.

f. Apply all available resources that exceed the SSI resource limit against the calculated arrears amount. Available resources must be used to reduce the amount of the payment authorized by the district to meet the emergency. Failure to apply available resources results in ineligibility for assistance.

g. When making arrears payments to an energy provider on behalf of an SSI recipient, districts are required to pay any applicable sales tax.

h. District must not pay miscellaneous charges such as late payment charges; reconnect fees, Marshall's fees, deposits, on-bill finance charges, etc.

i. Authorize a payment for the lesser of the balance due or the calculated arrears amount. If calculated arrears equal $0, no payment is authorized. A prospective guarantee may still be issued to a utility to continue or restore utility service (see Prospective Responsibility).

j. Districts must not pay the shut-off amount or an amount equivalent to a down payment, but must pay the lesser of the balance due or the calculated arrears amount.

k. The district must provide the energy provider with a "Notice of Utility Related Action" (see Attachment A section of this Manual) to notify the energy provider of the beginning and end dates for the prospective responsibility and the method that will be utilized to meet the prospective responsibility. Districts must retain a copy of the letter in the individual's case record.

8. Authorization of Arrears Payment

a. The availability of HEAP must be explored prior to authorizing any TA payment to avert a utility disconnect.

b. Districts must explore eligibility for EAA and issue the payment as EAA, if the household is otherwise eligible, when the caretaker relative or non-parent caretaker receives SSI and applies for assistance with an emergency including an energy emergency. See 12 INF-07 and GIS10 TA/DC015.

c. EAA must be used to authorize utility arrears assistance on behalf of SSI households, even if there is a child eligible for EAF residing in the household. See 12 INF-07, GIS10 TA/DC015 and the Household Type chart found in Emergency Energy Assistance and Household Type section of this manual.

9. Payment Type Coding

a. Districts must authorize a payment using Welfare Management System (WMS) payment type "60-Emergency Utility Payment to Prevent Shut-Off or Restore Service" for Rest of State and as appropriate in NYC.

10. Repayment Agreement

a. A household categorized as SSI is exempt from Repayment Agreement requirements.

b. When an applicant who has signed a "Utility Arrears Repayment Agreement" becomes eligible for recurring SSI, districts must suspend any unpaid balance on the arrears until such person is no longer receiving recurring SSI. At that time, the unpaid balance will again become due to the district under the terms of the agreement. See 09 ADM-17 for more information on utility repayment agreements.

c. Real property liens must not be used to recover payments provided under EAA.

11. Prospective Responsibility/Letter of Guarantee

    a. When a district has authorized an arrears payment for an SSI recipient using EAA, the district must also guarantee payment of the SSI recipient's future utility bills for the following six months or the end of the month in which the district notifies the utility company that the SSI recipient's benefits have been terminated, whichever comes first. This is true even if the payment made to the utility company is zero ($0).

    b. The period of prospective responsibility must cover either the six (6) monthly or three (3) bi-monthly billing periods following the arrears payment period or until the end of the month in which the district notifies the utility company that the SSI recipient's benefits have been terminated, whichever occurs first.

    c. If the arrears payment made to the utility company is $0 and service is restored based on prospective guarantee (six-month guarantee) the district's prospective responsibility begins on the date the utility was restored.

    d. The district must provide the energy provider with a "Notice of Utility Related Action" letter to notify the energy provider of the beginning and end dates for the prospective responsibility and the method that will be utilized to meet the prospective responsibility.

    e. The period of prospective responsibility begins immediately following the last period covered by the arrears payment period.

    d. The district must issue a "Notice of Utility Related Action" letter to the energy provider informing them that the SSI recipients' benefits including guarantee period have been terminated no later than fifteen (15) days from the date the district received official notice that the SSI recipient's benefits have been discontinued.

    e. The district is not required to notify the energy provider that a six (6) month guarantee period has ended because this information is communicated in the "Notice of Utility Related Action" letter sent to the provider at the time the guarantee was initiated.

    f. Districts must retain a copy of the "Notice of Utility Related Action" letter in the individual's case record.

12. Notice of Non-Payment

    a. Although the district is responsible for fulfilling the guarantee the SSI recipient maintains primary responsibility for his or her bill.

    b. If the district receives a notice of non-payment from an energy provider, the district should attempt to contact the SSI recipient to encourage payment of the bill.

c. Any payment made by the SSI recipient on his or her utility bill during the guarantee period must be deducted from the guarantee amount the district pays to the utility.

d. The district must use WMS Payment Type "13-Guaranteed Utility Account Payment" when authorizing an EAA payment to cover the arrears accumulated during the guarantee period.

e. Districts should be aware of local energy provider late fee policies and should make every effort to make payment on guaranteed accounts in order to avoid such late fees.

Example:

Ms. Burton is in receipt of SSI and resides with her 12-year-old son, who is in receipt of TA. The son's TA case is budgeted with a heating allowance, and no payments are restricted to the utility company. Ms. Burton heats with electricity and resides in a private rent situation. She is applying for emergency TA because her utility service is scheduled for disconnection. She states she has $50 available in liquid resources.

The worker verifies that Ms. Burton is:

- The tenant and customer of record.
- Not living in a shared meter situation.

The worker determines that Ms. Burton is eligible for EAA to meet the household's utility emergency. The worker reviews the shut-off notice and notes that the shut-off is scheduled to occur in four days. The amount due is $854.25. This is not an immediate need, but it is an emergency. The worker then contacts the utility company for a billing history and determines the following:

Of the last 10 billing cycles, the most recent four completed billing cycles are January 12th through May 12th, which total $755.22.

- Ms. Burton has made two payments during the 10-month look back period totaling $100, one for $70.00 on February 3rd, and one for $30.00 on March 15th, leaving a balance due on the account of $1,245.96.
- Regular and Emergency HEAP are not available.
- No management test is applied because this is an SSI household.
- The district is not requiring the SSI household to pursue a DPA, because the district has determined that it is not a viable resource
- The district determines that rehousing is not appropriate for this household.

The payment may be authorized on Ms. Burton's EAA, SNAP or MASSI case. The district must not authorize a payment on the son's TA case.

Ms. Burton is then placed on utility guarantee for six months, or until her SSI case closes, whichever comes first (which will be discussed in a later topic). The worker must provide the utility company with the *Notice of Utility Related Action,* and Ms. Burton with a LDSS-4002 telling her how the district has met the emergency.

B. SSI Household Procedures for Non-Utility (other than electric and natural gas) Heat Only Emergencies

1. When an SSI or SSP recipient contacts the district to report that they are out or low on non-utility heating fuel such as oil and propane, the district must determine if the emergency is an immediate need to obtain the necessary delivery of non-utility heating fuel.

2. In order to apply for assistance to meet an emergency or immediate need, an SSI applicant must complete, sign, and submit a TA application.

3. Non-utility domestic energy needs are not being considered an emergency; i.e., household only cooks or heats water with propane.

4. Payment Limits

   a. A payment to meet a non-utility emergency may only be authorized during periods of cold weather, as defined by the district.

   b. The payment for a non-utility emergency is limited to the costs for energy to meet the emergency.

   c. When an SSI household is in need of a non-utility heating delivery, the district must authorize a payment when such payment is necessary for the household's residential heating purposes and no alternative payment or housing accommodations are available.

   d. Districts may consider rehousing. The district must ensure that any housing resource is viable and actually available to meet the housing needs of the household. 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.

5. Calculation of payment to meet non-utility emergency

   a. If the household is in a shared fuel situation, districts must follow the procedures outlined in the **Shared Meter/Shared Fuel Situations** section of this Manual.

   b. Districts must fully explore the availability of HEAP to meet the emergency need prior to authorizing EAA.

   c. All available resources in excess of the SSI resource limit must be applied against the amount required to resolve the emergency. Failure to apply available resources results in ineligibility for assistance. Available resources up to the allowable limit for SSI are not considered available for SSI recipients whose emergency payment is authorized under EAA.

d. The district is **tax exempt** when making payment to an energy provider for delivery and/or service ordered by and billed directly to the district.

e. Districts must make payment on charges such as special delivery fees, deposits; etc., if essential to meet the emergency **and** when other alternatives are not available.

6. Authorization of Non-Utility Payment

   a. A district must authorize payments made to obtain non-utility heating fuel energy for a SSI household as EAA, using WMS Payment Type “N1-Emergency Non- Utility Fuel Payment”.

   b. When utilizing EAA, the TA standard of need is not applied in determining eligibility.

7. Prospective Responsibility

   Districts have no prospective responsibility when authorizing non-utility heating fuel emergency payments.

8. Repayment Agreement

   A household categorized as SSI is exempt from Repayment Agreement requirements.

9. Real property liens must not be used to recover payments provided under EAA.

Example:

Ms. Green is in receipt of SSI. Her household contains an NTA daughter under 18. She comes into the agency on January 30th, and states that she is out of fuel oil. Since it is during a period of cold weather, Ms. Green may be eligible for emergency consideration. The worker determines that Ms. Green is the tenant and customer of record. The worker contacts the fuel dealer and determines that Ms. Green has not had a delivery in two months and is out of fuel oil. Ms. Green's fuel emergency is an immediate need.

The fuel dealer will supply Ms. Green with a minimum delivery of fuel oil for $300. Ms. Green has $50 in available resources. However, the $50 is considered an exempt resource because it does not exceed the SSI resource limit. Regular and Emergency HEAP have been exhausted. The worker will authorize a payment for $300 under EAA to meet Ms. Green's emergency. There is no prospective responsibility in this case. The worker provides Ms. Green with a DSS-4002 telling her how the immediate is to be met. For more information on letters of guarantee, see the **Methods of Payments** section of this Manual.

VIII. HEATING EQUIPMENT REPAIR AND/OR REPLACEMENT

Individuals seeking help with heating equipment repair or replacement needs after the HEAP component is closed, or who have been found ineligible through HEAP, may, if they apply and are found eligible, have his or her needs met under FA, SNA, 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, please see the TASB – Chapter 16, section C, Equipment Repairs.

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.

IX. METHODS OF PAYMENT: FUEL FOR HEATING AND/OR DOMESTIC ENERGY COSTS

GENERAL

The method that districts use for providing a payment to TA recipients for fuel for heating allowance or domestic energy costs is either unrestricted or restricted in accordance with 18 NYCRR § 381.1.

A. Unrestricted Payment(s)

1. Unrestricted is when the recipient's fuel for heating allowance and/or domestic energy costs are included in the TA recipient's cash grant and he/she retains the sole responsibility for the payment of his/her fuel for heating and/or domestic energy costs.

2. TA recipients who pay his or her own energy bill(s) are not sales tax exempt.

B. Restricted Payment(s)

1. Restricted is when the recipient's fuel for heating allowance and/or domestic energy costs are restricted by the district from the TA grant of assistance and paid directly to a vendor by voucher or electronic transfer.

2. When a district places a recipient on restricted payment for his/her heating and/or domestic energy costs (including Energy Service Companies), the district must reduce the recipient's grant by the appropriate restricted amount(s) in accordance with this section.

3. The district must reconcile paid and restricted energy amounts at least once a year.

4. Notices – districts must provide appropriate (timely/adequate) notice to TA recipients when the district initiates, changes or terminates restricted payments.

5. Districts may provide notice to energy providers when the district initiates or terminates restricted energy payments but they are not required to.

6. Sales Tax – districts are exempt from paying sales tax on the account(s) of a recipient who is on restricted payment for a non-utility (other than electric or natural gas) energy bill.

7. If propane (LP) is the source of heat, and the restriction is of the fuel allowance (or of the greater, actual amount of the heating costs), the LP tank maintenance deemed mandatory by the LP supplier is considered a cost associated with the energy required to heat the dwelling unit and must be included in the cost of heating the dwelling.

C. There are **three methods of grant restriction for fuel for heating and/or domestic energy**: administrative ease, voluntary restriction, and mandated restrictions.

1. Administrative Ease Restriction

   a. In accordance with 18 NYCRR § 381.3(c)(2), districts may impose an administrative ease grant restriction in an FA (case type 11) or cash-SNA (case type 16) case not to exceed the TA fuel for heating allowance and/or the domestic energy costs paid directly to a vendor, when the district determines that the restricted grant is less expensive or is a more easily controlled method of payment than providing cash to the recipient.

   b. An administrative ease grant restriction does not require the written permission of the TA recipient to restrict an amount for fuel for heating and/or domestic energy from the TA grant and pay a vendor in accordance with Section G below.

2. Voluntary Restriction Method

   a. In accordance with 18 NYCRR § 381.2(a), FA (case type 11) and cash-SNA (case type 16) recipients may at any time request that an amount of his or her TA grant be restricted for fuel for heating and/or domestic energy costs.

   b. Districts may impose a voluntary restriction in a FA (case type 11) and cash-SNA (case type 16) when the recipient requests a fuel for heating and/or domestic energy grant restriction in writing using the LDSS-4580 "Request for Restricted Payments" and the cash grant is adequate for appropriate restrictions 18 NYCRR § 381.4(a). The LDSS-4580 "Request for Restricted Payments" form must be signed, dated and filed in the case record.

   c. FA (case type 11) and cash-SNA (case type 16) recipients have the right to request at any time that a voluntary restriction payment(s) be discontinued. The district may discontinue the voluntary restriction as soon as practical, but no later than thirty days after receipt of the written request. However, the district may impose an administrative ease restriction when an FA or cash-SNA recipient requests that a voluntary restriction payment(s) be discontinued.

3. Restricted Payments – Mandated Restrictions

   a. Non-Cash SNA case types 12 and 17, have mandated grant restrictions prescribed by law. In accordance with 18 NYCRR § 370.4(b)(2)(ii), the shelter must be restricted first followed by fuel and domestic energy. See 97 ADM-21

   b. Mandated SNA grant restrictions supersede all methods of grant restriction, including administrative ease.

D. Mandated Restriction Payment Options

1. Fuel for Heating

   a. The district may pay the entire actual heating bill (only with the recipient's written permission, see LDSS-4580, "Request for Restricted Payments" form), even when the bill is greater than the restricted amount, using WMS Method of Payment Code "03 – Vendor as Billed" on screen 6 of the DSS-3209; or,

   b. The district may pay just the restricted amount using WMS Method of Payment Code "04 – Vendor as Billed Subject to Limit" and entering the restricted amount in the amount field on screen 6 of the DSS-3209.

2. Domestic Energy Only Accounts

   a. The district may pay the entire actual domestic energy bill, even when the bill is greater than the restricted domestic energy amount, without the recipient's permission using WMS Method of Payment Code "03 – Vendor as Billed" on screen 6 of the DSS-3209, or;

   b. The district may pay just the restricted domestic energy amount using WMS Method of Payment Code "04 – Vendor as Billed Subject to Limit" and entering the restricted amount in the amount field on screen 6 of the DSS-3209.

3. Combined Heating and Domestic Energy Accounts

   a. The district may pay the entire actual combined heating and domestic energy bill, even when the bill is greater than the restricted amount(s), using WMS Method of Payment Code "03 – Vendor as Billed" on screen 6 of the DSS-3209, or;

   b. When a single energy provider, on a combined billing basis supplies the heating and domestic energy service, the entire energy bill may be paid without the written consent of the client.

   c. The district may pay just each of the restricted amounts using WMS Method of Payment Code "04 – Vendor as Billed Subject to Limit" and entering the restricted amount in the amount field on screen 6 of the DSS-3209.

E. Restricted Domestic Energy Amounts

1. Restricted amounts for domestic energy costs from the TA grant of assistance transmitted directly to a vendor by voucher or electronic transfer must not exceed the following:

   a. An average monthly domestic energy usage amount based on billings exclusively for domestic energy.

   b. An average monthly domestic energy usage amount supplied by the energy provider.

   c. On combined domestic energy and heating bill, non-heating months (June, July and August) are to be used to determine the average monthly domestic energy usage amount, since these months represent domestic energy usage only.

      To calculate the restricted amount the district may calculate the average amount of the June, July and August bill or select only one of the months (June, July or August).

   d. In cases where there is more than one domestic energy provider, the average monthly billing amount of each provider must be combined to determine the households (total) average monthly billing amount.

F. HEA and SHEA Allowance

1. HEA and the SHEA cannot be used to calculate a domestic energy budget restriction.

G. Authorization of Restricted Payments from TA Grant to Vendors

1. Districts have flexibility in the manner in which restricted payments are authorized to vendors or energy provider(s). Districts generally apply an option district wide or to a specific TA population. District staff must consult with his or her local administrators as to the adopted local policy. The payments options are:

   a. Pay the entire actual fuel and domestic energy bill, even when the bill is greater than the restricted amount using WMS Method of Payment Code “03 – Vendor as Billed” on screen 6 of the DSS-3209, or;

   b. Pay only the restricted amount using WMS Method of Payment Code “04 – Vendor as Billed Subject to Limit” and entering the restricted amount in the amount field on screen 6 of the DSS-3209.

2. The Utility Billing and Payment Tape Exchange System (UTX) support the payment options.

H. Examples:

Example 1: Restriction SNA (Case Type 17)

A non-cash SNA case with domestic and heating energy supplied by a single energy provider has a remaining deficit of $90.00 after the mandated shelter restriction. The monthly heating allowance is $70.00 and average monthly domestic energy cost is $50.00. After restricting these amounts in the appropriate ABEL input fields, ABEL displays restricted amounts of $50.00 for domestic energy and $40.00 for heating. The district may pay just $90.00 monthly or the entire actual combined energy bill.

Example 2: Restriction SNA (Case Type 17)

A non-cash SNA case with domestic and heating energy supplied by separate energy providers for domestic energy and heating, has a remaining deficit of $90.00 after the mandated shelter restriction. The monthly heating allowance is $70.00 and average monthly domestic energy cost is $50.00. After restricting these amounts in the appropriate ABEL input fields, ABEL displays restricted amounts of $50.00 for domestic energy and $40.00 for heating. The district may pay $50.00 monthly or the entire actual domestic energy bill. However, the district can only pay $40.00 monthly for the heating bill, unless the non-cash SNA recipient provides written permission to pay the entire heating bill. With written permission, the district may pay $40.00 monthly or the entire actual heating bill.

X. PROCEDURES FOR REQUIRED RECONCILIATION

A. Required Fuel for Heating and Domestic Energy Reconciliation Process

1. Whenever districts place a TA recipient on restricted payment for heating and/or domestic energy costs the district must conduct a reconciliation of the amounts restricted and paid.

2. The reconciliation must be completed:

   a. at least once a year; and,
   b. when an energy restriction is terminated; or,
   c. when a TA case closes.

3. In order to facilitate the reconciliation process, districts must establish procedures to track energy payments made to energy providers. For more information, see the Indirect Payment Processing Sub-system Manual (IPPS), chapter 8, pages 7-8. To access the IPPS Manual, go to Centraport→ OTDA→—Finance, & Data Management→Bureau of Financial Services.

4. Reconciliation for heating and/or domestic energy costs is accomplished in the following steps:

   a. The district must calculate the amount paid by the district to the recipient's energy provider(s) for the time period being reconciled.

      NOTE: HEAP payments to an energy provider are not included in the calculations of the reconciliation process.

   b. The district must then calculate the total amount(s) restricted for energy from the recipient's TA grant during the same time period used in Step 1.

      NOTE: When calculating restricted amounts for cooperatively budgeted cases on restricted payment, the total amounts restricted from each cooperatively budgeted case must be added together.

   c. The district then compares Steps 1 and 2.

   d. If the amount paid to the energy provider(s) by the district is less than the amount restricted from the recipient's TA grant, the recipient has been underpaid and the district must take one of the following actions:

      (1) Apply the underpayment against any outstanding overpayment, or,
      (2) If there is no outstanding overpayment, issue a refund to the recipient, or,
      (3) If the overpayment is less than the underpayment, apply the underpayment against the overpayment and issue the remainder to the recipient.

      NOTE: Underpayments for cooperatively budgeted cases are applied on a pro-rata basis I, II, or III for each cooperatively budgeted case.

e. If the amount paid to the energy provider(s) by the district is more than the amount restricted from the recipient's TA grant, the recipient has been overpaid and is subject to recoupment. The overpayment is classified as an advance payment with the ABEL recoupment type of "3". It is not necessary to separate the cost of service into heat and domestic energy portions. Districts must send a timely and adequate notice to the recipient prior to initiating the future recoupment.

f. Overpayments for cooperatively budgeted cases are applied on a pro-rata basis to each cooperatively budgeted case with a restriction.

g. After completing the reconciliation process, districts should review the restricted amount for domestic energy costs for those recipients on restricted payment for his or her domestic energy or combined heat/domestic energy and adjust the restriction.

B. Automated Reconciliation Process

BICS offers an automated process, for more information see the Indirect Payment Processing Sub-system Manual (IPPS), chapter 8, pages 7-8.

C. Utility Letter of Guarantee

1. When an district guarantees payment to the utility company by means of a letter of guarantee, the TA or SSI recipient maintains responsibility for the payment of his or her utility bill and the utility company is required to continue with its normal billing process to the customer. If an district is unable to reach the TA or SSI recipient, or the TA or SSI recipient refuses to discuss payment of the guaranteed arrearage, the district must make the appropriate payment on behalf of the recipient.

2. In the event the TA or SSI recipient fails to pay the bill, the utility company is prohibited from issuing a disconnect notice or terminating service to the guaranteed customer. In such cases, the utility company must continue service and issue a notice of non-payment to the customer. At the same time, a notice must be sent to the district that specifies the amount of arrears accumulated since the guarantee became effective. The district should attempt to contact the TA or SSI recipient in order to ascertain his or her ability to pay the arrearage.

3. The receipt of a Notice of Non-Payment does not constitute an immediate need, since the service to guarantee customers cannot be terminated by the utility company.

4. Any payment made to a TA recipient on guarantee is an overpayment subject to recoupment pursuant to 18 NYCRR § 352.31(d).

5. It is essential that the district closely track all TA and SSI cases for which a form of guarantee has been issued.

6. When a TA case is closed prior to the expiration of the guarantee period, the district must notify the utility company in writing no later than fifteen days after the TA case closing. The district is responsible for guarantee of payment until the end of the month in which the required notice of case closing is provided.

7. For an SSI recipient, the district must notify the utility company in writing no later than fifteen days after receipt of a SDX report indicating that the SSI case is closed. The district is responsible for guarantee of payment until the end of the month in which the required notice of case closing is provided.

8. The WMS Anticipated Future Action (AFA) code of “303 – Expiration Date of Utility Guarantee Contract – Notification Required” should be used to track the six-month guarantee period.

9. When the guarantee expires for the TA or SSI recipient after six months and the customer remains in receipt of TA or SSI, the utility company must continue to hold any arrearage incurred prior to the initial arrearage payment in suspension. This continues as long as the TA or SSI recipient remains in active status. Any termination threat issued to such individuals must only result from non-payment of current bills

10. Once a 131-s TA utility arrears payment is made, all prior arrears are suspended and any subsequent TA payment made for utilities while the client is in receipt of TA or SSI should be applied by the utility company to the current bill.

11. A fair hearing is allowed for both the guarantee period and the guarantee amount.

D. Combination of Restricted Payment and Letter of Guarantee

If the recipient fails the utility arrears management test (see the Emergency Assistance-Temporary Assistance Households section of this Manual), and the district guarantees payment to the utility company by means of a combination of restricted payment, paying the restricted amount, and letter of guarantee, guaranteeing the balance between the paid restricted amount and the actual billing amount, each of the aforementioned procedures must be followed.

XI. DEFERRED PAYMENT AGREEMENTS

A. General Information

One of the most important alternative payment possibilities that districts must consider prior to authorizing utility arrears assistance is whether or not the household seeking assistance has attempted to negotiate a DPA with the energy provider. A DPA is an arrangement for payment negotiated between the utility provider and a customer who is experiencing difficulty in meeting bill payment obligations. Agreements must be negotiated such that current bills are paid as due along with the amount designated to repay the arrearage. The arrearage payment amount must be based on the customer's ability to pay, without specific time limits, and mutually agreed on by both parties.

B. Payment Arrangement Requirements

1. General Requirement

   Households in a utility emergency are required to attempt a payment arrangement with the energy provider.

   The LDSS-3596 Financial Statement assesses an A/R/G's financial situation to determine if he/she is required to attempt to negotiate a 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 A/R/G may be eligible to negotiate and enter into alternative payment arrangements, a DPA, with his/her utility company.

   A positive cash flow for a NTA household requires a referral from the district that directs the A/R/G to his/her utility company to attempt negotiation of a DPA. Although an A/R/G 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 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/G 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.

2. TA/SSI Households

   a. The district has the option of waiving the payment arrangement requirement for TA and/or SSI households. However, the district must analyze TA and/or SSI households on a case-by-case basis to determine if a DPA is a viable alternative. In cases where it appears a DPA could be negotiated, the district may require the recipient to attempt a DPA.

   b. When waiving the DPA requirement for TA and/or SSI households, the district must note the reason for the exemption in the case record.

C. Required Form

1. In order for the district to verify a DPA has been attempted and is not possible, the energy provider must complete the "Financial Statement" (LDSS-3596) and provide this form to the district.

2. The LDSS-3596 may be completed in person or over the phone. A copy of the LDSS-3596 should be submitted to the district within five (5) business days.

3. The district must retain the LDSS-3596 in the case record.

D. Completion of the "Financial Statement"

All resources, income and expenses claimed by the applicant on the LDSS-3596 "Financial Statement" are subject to investigation and verification/documentation by the district.

1. Resources

   a. All resources that may be available for a down payment should be listed in Section A of the LDSS-3596 form. There are no resource exemptions.

   b. Resources must be documented. Credit card advances or loans can be required if the applicant has a positive cash flow provided that the A/R/G is not a TA or SSI recipient.

2. Income

   a. Income is calculated on a monthly basis and prospectively. Income for the **entire** household is counted for purposes of the LDSS-3596. **All** income sources (earned, unearned, child support, SNAP benefits, room and board, etc.) must be documented.

   b. To calculate the monthly income amount, weekly wages are multiplied by 4.333, bi-weekly wages by 2.166. In addition, the following income deductions are allowed: Mandatory employment related expenses are deducted from the gross monthly income. These include Social Security, taxes, mandatory union dues/ shop fees, health insurance premiums, and NYS disability payments.

      NOTE: When a household member is claiming fewer dependents than are actually allowed for tax purposes, the individual's income is adjusted by utilizing current Federal/State tax withholding charts.

   c. Court Ordered child support or garnishees are also deducted from the gross income. Voluntary deductions; (i.e., credit union loan payments) are not deducted from gross income.

3. Expenses

   a. Expenses are calculated on a monthly basis and on a prospective basis. It is not required that essential expenses be **paid** by the applicant in order to be allowed on the LDSS-3596. Weekly expenses are multiplied by 4.333, bi-weekly expenses by 2.166 to calculate monthly costs.

      (1) Shelter

      - In general, the rent or mortgage, as due, is considered an allowable expense. The rent or mortgage expense must be documented by the applicant. Shelter arrears are not included as an expense.

- In situations where the rent or mortgage is shared or paid by someone else not in the applicant's household, only the amount actually paid by the applicant is allowed. In addition, households that receive a rent subsidy are only allowed the actual amount that they are obligated to pay.

- Basic homeowners/renters insurance is also an allowable deduction. See Insurance section.

- Fees that are mandatory for homeowners, (i.e., assessment fees, maintenance fees) are allowable deductions.

- Water/sewer/trash removal expenses are also allowable expenses if the household is directly responsible for these costs.

- A monthly amount is allowed for real estate taxes on the applicant owned residential home. The annual property/school taxes are divided by 12 to calculate the monthly amount. Taxes must be documented. This amount is listed under the "Real Estate Taxes" section.

NOTE: Insurance, water/sewer, and taxes should only be allowed as a separate expense if they are not included in the rent/mortgage payment.

(2) Food/Non-Food

Guidelines for this expense are established by the Office of Temporary and Disability Assistance based on the SNAP Thrifty Food Plan. Guidelines are updated each October; the district should make sure current guidelines are used.

NOTE: An actual amount for food is entered in the expense section even if the household receives SNAP benefits. The amount of SNAP benefits received by the household is included in the "Income" section.

- The Food/Non-Food guideline amounts are only guidelines. A household should first be asked what amount is spent on food/non-food items on a monthly basis. If the household spends less than the highest guideline for the family size, the actual expense is used for the LDSS-3596. If the household spends more, the individual case circumstances must be reviewed to determine if the higher amount will be allowed (i.e., special dietary needs).

- Non-food items such as soap, detergents, paper products, etc. are included in this category.

(3) Medical Expenses

- This expense should reflect the average monthly amount for ongoing care, treatments, prescriptions, etc., which are current or prospective. Any insurance coverage (Medicaid, Medicare, private insurance) which

will cover all or part of the ongoing expenses should be deducted to calculate the amount used for the DPA.

- Bills previously incurred for medical care or prescriptions are not an allowable deduction.

- Health insurance premiums are an allowable expense.

(4) Utilities (Electric or Natural Gas, supplied by a PSC regulated or non-PSC regulated supplier, required for Heat and/or Domestic Energy)

This amount should reflect the applicant's monthly budget payment. Energy providers should calculate the budget amount to complete this section. Late payment charges may be included. The amount to be applied towards the arrears is not included in this section.

(5) Non-Utility [Energy other than electric or natural gas required for heat and/or domestic energy (i.e., propane, kerosene, oil, coal).

An average monthly non-utility cost is allowed when the applicant's heat is provided by a source other than the utility. The monthly figure is calculated by determining annual costs and dividing by 12.

NOTE: There are circumstances where a household could have monthly expenses with multiple energy providers (i.e., cooking gas, propane, kerosene).

(6) Basic Telephone

Only basic monthly telephone charges are allowed for the household's primary telephone.

(7) Car/Transportation Expenses

Transportation expenses must be either essential or employment related. Transportation expenses include car payment, lease payment, car insurance, gas expenses, car repairs or public transportation costs. Essential transportation includes transportation necessary for medical care, the costs of maintaining a vehicle when public transportation is not readily available, etc. Employment-related includes going to and from work, looking for work, etc.

Total transportation expenses should not exceed 20% of the household's gross monthly income. If the transportation expenses do not exceed the 20% guideline, the actual expenses must be allowed. However, if these expenses do exceed 20%, districts must, on a case-by-case basis, review the expenses and make any necessary adjustments. Any downward adjustments must be done on a case-by-case basis and not as a general policy. There may be cases where costs in excess of the 20% guideline are justified (i.e., client travels long distances to work, higher automobile insurance).

(8) Real Estate Taxes

A monthly amount is allowed for real estate taxes on the applicant owned residential home. The annual property/school taxes are divided by 12 to calculate the monthly amount. Taxes must be documented.

NOTE: Taxes should not be allowed as a separate expense if they are already included in the mortgage payment.

(9) Personal Needs Allowance

A personal needs allowance of $45.00 per month per household member is allowed. Personal needs include clothing and incidentals that an individual may need.

(10) Child Care

Essential or employment related childcare costs, as obligated, are allowed. Essential childcare is childcare service that is required for the individual to take part in required activities (i.e., person in drug/alcohol treatment).

(11) Court Ordered

Payments that are court ordered and/or wage garnishees are allowed as expenses.

(12) Non-Allowable Expenses

The following are considered non-essential expenses and will **not** be included on the LDSS-3596.

- Cable TV charges
- Credit card/installment payments for non-essential items
- Tuition/student loan payments
- Life insurance payments
- Disability insurance premiums
- Insurance payments on non-essential items such as boats, trailers, snowmobiles, non-essential cars, etc.
- Internet/online services

E. Summary

1. After totaling the monthly income and monthly expenses, the district must determine if the household has a positive or negative cash flow.

2. If a customer has more monthly expenses than income, the customer is considered to have a "negative" cash flow and may be eligible for assistance.

3. If a customer has more income than expenses, then the customer is considered to have a "positive" cash flow and should attempt to negotiate a DPA with the utility company.

F. Refusal to Negotiate a Payment Arrangement or Provide Information

1. Districts can deny energy-related emergency benefits for refusal to attempt to negotiate a payment arrangement and/or provide information/documentation on the LDSS-3596 or accept a fair and reasonable offer. If the applicant is denied for these reasons and if a child or elderly/disabled adult resides in the household, a referral to the appropriate services unit should be made.

G. Down Payments

1. A payment arrangement can be negotiated without a down payment if the household has not previously defaulted on a fair and reasonable arrangement and does not have available resources to make a down payment.

2. If the household has defaulted on a fair and reasonable payment arrangement, the energy provider can require a down payment.

H. Change in Financial Circumstances

1. Applicants have the right to have an existing payment arrangement re-negotiated if his or her financial circumstances change significantly because of reasons beyond his or her control.

2. Applicants should be encouraged to contact the energy provider before they default to re-negotiate the payment arrangement.

3. No down payment is required in re-negotiating the payment arrangement.

I. Applicant Default on Previous Payment Arrangement

1. If an applicant has previously defaulted on a payment arrangement, the district must determine:

   a. If the payment arrangement was fair and reasonable and based on the household's financial circumstances.

   b. If the payment arrangement was in writing, the district must obtain a copy of the written payment arrangement form for review or proof that the prior arrangement was reasonable. **If the payment agreement was not in writing, the district should refer the applicant to the PSC (1-800-342-3377) to obtain a new DPA if it appears that the applicant has the ability to negotiate a DPA**.

J. Utility Provider Responsibilities

1. Utility Provider Obligations

   a. An energy provider must make reasonable efforts to contact eligible customers or applicants by phone, mail or in person to offer a payment arrangement tailored to the customer's financial circumstances.

   b. An energy provider must negotiate in good faith with any customer to achieve an agreement that is fair and equitable considering the customer's financial circumstances.

   c. A payment arrangement may provide for installments on any schedule over any period of time if mutually agreed to by both parties. The agreement should not be signed if the customer or applicant is unable to pay its terms.

   d. An energy provider may require that a customer complete the LDSS-3596 showing assets, income and expenses.

   e. A payment arrangement must provide for repayments as low as ten dollars per month and **no down payment**, when the customer demonstrates financial need.

   f. An energy provider may postpone a scheduled termination of service for up to ten (10) calendar days for negotiating a payment arrangement, if the customer is clearly advised of such postponement.

   g. An energy provider must re-negotiate an existing payment arrangement if the customer demonstrates that the financial circumstances of the household have changed significantly due to conditions beyond his or her control. However, a minimum agreement does not have to be re-negotiated if the customer does not have a positive cash flow.

   h. In such cases where the parties have been unable to reach agreement, the PSC may become involved to resolve the issue.

2. Broken Agreements

   a. Customers may be entitled to a re-negotiated agreement under certain conditions.

   b. When customers have broken agreements, please refer to PSC regulations: Rules Governing the Provision of Gas, Electric and Steam Service to Residential Customers under HEFPA.

XII. SHARED METER/SHARED FUEL SITUATIONS

A. Definitions

1. Shared Utility Meter

   A shared utility meter is an energy meter that measures gas, electric, or steam service provided to a tenant's own dwelling unit and also measures service to other space outside that dwelling unit not under the exclusive use and control of the tenant for which the tenant pays the charge.

2. Shared Fuel Source

   A shared fuel source is a common source of heating fuel used to provide heat to the tenant's own dwelling unit and to other space outside the dwelling unit that is not under the exclusive use or control of the tenant.

3. Shared Heating Equipment

   Equipment is considered shared when the heating equipment is used to provide heat to more than one dwelling unit. This may affect eligibility for heating equipment repair and/or replacement.

B. Shared Utility Meter Situations

1. Public Service Law Requirements

   Public service law governing utilities requires that accounts for shared meters be in the landlord's name unless the tenant and landlord have entered into a written agreement for the apportionment of charges, or the cost of service is minimal.

   Non-PSC regulated utilities are not governed by this provision.

2. Assessing Shared Utility Meter Situations

   When the district has reason to believe that an A/R/G's utility meter is a shared meter, the district must determine if:

   a. The A/R/G is the owner, or

   b. The tenant has a signed, written agreement with the landlord regarding the shared meter charges, or

   c. The tenant's utility service is provided by a utility not regulated by the PSC, or

   d. A shared meter investigation needs to be conducted by the utility company. Districts must use the "Request for Shared Meter Investigation" form (see Attachment B) to request this investigation.

3. Payment Procedures

   Based on the assessment of the shared meter situation, the district must follow the appropriate procedure, as outlined below:

   a. If the tenant is the owner, or has a written agreement with the landlord, or utility is not PSC regulated.

      (1) The district must first calculate the utility arrears amount.

      (2) Pro-rate this amount by the number of units served by the shared meter. If the area serviced by the shared meter outside of the A/R/G's own unit is not another housing unit, the district will need to obtain an estimate of the usage of the area from the utility company. In cases where usage is minimal, such as a light bulb in a hallway, districts may pay the entire bill.

      NOTE: Payments made by TA recipients and applied to the arrearage amount are applied against the prorated amount, not the total four-month arrears amount.

      - Determine the total balance due on the account.
      - Prorate the balance due by the number of units served by the shared meter.

NOTE: Payments made by the applicant are deducted from the prorated balance due amount, not the total amount due on the account. This is done in order to determine the A/R/G's share of the balance due and to credit any payments to only his or her share of the bill.

- Compare the prorated arrearage amount to the prorated balance due.
- Pay the lesser of the amount calculated above in #5.

Examples:

Joe is the owner of a two-family house. The house has separate oil furnaces but has one electric meter servicing both units. Joe receives a shut-off notice on his utility bill. The agency first determines that Joe is the tenant and customer of record, determines that he is otherwise eligible for emergency assistance, and assesses the shared meter situation. As Joe is the homeowner, the public service law governing shared meters does not apply. However, the agency must first determine Joe's share of the bill and provide assistance only for his share. The agency determines the four-month arrearage amount to be $400. The agency then determines the prorated amount to be $200 ($400 divided by 2 units). The balance due on the account is $1200 and Joe's share of the balance due is $600. Joe is an NTA household and has made payments on the utility account totaling $200. This amount is deducted from his share of the balance due, bringing this total to $400. The payments are not deducted from the arrearage calculation because he is NTA. The agency then compares the pro-rated arrearage calculation ($200) to the adjusted balance due ($400) and determines that the four-month payment is the lesser amount. The agency authorizes a payment of $200.

Barb rents an apartment in a three-family house. Heat is included in the rent for all three apartments and is provided by a central gas operated furnace. Each apartment has a separate utility meter but the meter to Barb's apartment also includes the electricity to operate the furnace. Barb has a written agreement with the landlord that she will pay the full utility bill in exchange for a discount in her rent. Barb comes into the agency with a shut-off on her utility bill. As she has a written agreement with the landlord regarding the shared meter, the shared meter law does not apply. However, the agency may request an estimate from the utility company regarding the cost of the electric to operate the furnace. If the district determines that the amount is minimal, the district may pay the full bill. However, if the amount is more than minimal, the district may deduct this amount from the calculated arrearage payment.

b. When an A/R/G is not in one of the situations outlined in the section above, the district must suspend any payment until completion of the shared meter investigation.

   The arrears payment is then calculated based on the utility's apportionment of the retroactive charges after the shared meter investigation is completed.

   Any payments made by the A/R/G are applied to the A/R/G's apportioned share of the arrears.

4. Prospective Responsibility for TA and SSI Recipients

   a. When the A/R/G is the owner, has a written agreement with the landlord regarding the shared meter, or has utilities provided by a non-PSC regulated company, the district must assume prospective responsibility for the A/R/G's proportionate share of the prospective bills. Prospective responsibility only applies to TA and SSI recipients. See Methods of Payment section for additional information on prospective responsibility.

   b. If the A/R/G was referred for a shared meter investigation and the utility determined that the meter is shared in accordance with the Public Service Law, the account is placed prospectively in the landlord's name and the district has no prospective responsibility.

   c. If the shared meter determination results in a decision that the meter is shared but the cost is minimal and does not require the bill to be in the landlord's name, the district must assume prospective responsibility for TA and SSI recipients. As the utility company has determined that the cost of the shared meter is minimal, the district assumes prospective responsibility for the entire bill.

Example:

Joe is an SSI recipient who owns a two-family house. He lives in one apartment and rents out the other unit. The house has one meter for gas and electric. Joe receives a shut-off from the utility company and comes into the district for assistance. The district determines that Joe is the owner of the house; therefore, the shared meter law does not apply. The agency also determines that Joe is eligible for emergency assistance and calculates the prorated payment. As Joe is an SSI recipient, the agency must also guarantee his share of future bills for six months following the arrearage payment period. The agency will issue the guarantee for one-half of the bills, as Joe's share (two units with Joe living in one).

C. Shared Fuel Sources

1. Assessing Shared Fuel Sources

   When the district has reason to believe that an A/R/G heating fuel source is used for the A/R/G's own unit and for space outside the unit, the district must explore the situation. The district must attempt to determine what additional space is being heated and if this space involves other dwelling units, storage facilities, basements, businesses, etc.

2. Payments

   An district may make payment essential to obtain heating fuel to an A/R/G, who is otherwise eligible for emergency assistance, in shared fuel situations.

   However, once a district has made an initial emergency payment to an A/R/G, subsequent emergency payments may only be made on an alternate basis with the other unit(s) sharing the heating fuel source.

   Prior to issuing payment for each subsequent delivery, it must be documented that heating fuel in amounts comparable to the most recent delivery paid for by the district have been provided by or on behalf of the other unit(s) sharing the fuel source. If the area sharing the heating fuel is not a residential unit, districts must make a case-by-case decision regarding future emergency payments based on the individual circumstances.

   In cases where the other unit(s) is not sharing in the fuel deliveries and cost, districts may choose either to relocate the A/R/G or to continue to make emergency payments.

3. Prospective Responsibility

   There is no prospective responsibility requirement for non-utility emergencies.

XIII. HOME ENERGY FAIR PRACTICES ACT (HEFPA)

A. Overview

On July 21, 1981, the Home Energy Fair Practices Act (HEFPA) was signed into law. The statute consolidated the responsibilities of gas, electric, and steam utilities and extended the rights of his or her residential customers. It defined as state policy that "the continued provision of gas, electric, and steam service to residential customers without unreasonable qualifications or lengthy delays is necessary for the preservation of the health and general welfare and is in the public interest".

Both the PSC regulated utilities and the districts have worked to meet the demands of HEFPA requirements outlined in state regulation and administrative directive. This Office has developed an approach that will enable all districts to efficiently implement the protections afforded by HEFPA. This Office's goal is to insure timely service to affected households, and to place the highest priority on households with identified potential impairments.

When a district receives an LDSS-2338 "Notice of Utility Referral to DSS," referral for an EBD household, the district must, at a minimum, send a letter to that referred EBD household as described in 93 ADM-26. If the utility referral specifically states that the customer is blind, the district must take appropriate steps to ensure that district's Adult Protective Services is involved to coordinate applications for financial assistance to continue or to restore service.

For information on procedures followed by utilities when terminating service to an EBD household, on required actions of districts when an LDSS-2338 is received, and on other district implications of HEFPA, see 93-ADM-26.

B. Dormant Account Review

1. To insure appropriate protection for those families and individuals who have been referred to the district by the utility company. The district must take the following actions at a minimum:

   a) District Contact with Referred Households- In person contact with the referred households should be made whenever practical. This would include an on-site visit or a phone contact. However, at a minimum, the district must send an appropriate letter to all referred households, including dormant account referrals. The letter must clearly explain how the household can apply for emergency assistance. Also, the letter must provide a telephone number which may be used to request additional information and assistance for the homebound. Finally, the letter must explain that an application for assistance must be completed and that neither the letter nor the referral from the utility company is a guarantee of financial assistance.

   A model letter is found in 93 ADM-26.

   NOTE: if the referral indicates that service was restored to the dormant account household because of a suspected serious impairment, the district must follow the contact procedures as described in section IV.B.(2) of 93 ADM-26

   See 93 ADM-26 for additional district responsibilities related to HEFPA.

XIV. GLOSSARY

COLD WEATHER PERIODS – 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 local policies. 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.

CUSTOMER OF RECORD – A person(s) who has an account in his or her name with an energy provider. An A/R/G is considered to meet the customer of record requirement when the A/R/G is the legal spouse of the customer of record residing in the same household or is the surviving spouse of the deceased spouse who was the customer of record.

DEFERRED PAYMENT AGREEMENT (DPA) – This is an arrangement for payment that is negotiated between the energy provider and a customer who is experiencing difficulty in meeting bill payment obligations.

DEREGULATION – The elimination or relaxation of regulations governing the Utility Industry.

DOMESTIC ENERGY – Energy required supplying lights, cooking and hot water for a dwelling unit.

DWELLING UNIT – House, apartment, trailer, duplex, room(s) or other living quarters used as a home by members of a household.

ENERGY PROVIDER – A utility and/or non-utility supplier of energy for domestic energy and/or heat.

ENERGY SERVICE COMPANIES (ESCO) – Companies that are independent suppliers of energy.

FINANCIAL STATEMENT (LDSS-3596) – This is the form that is completed by the utility company and the customer, listing the customer's income and expenses to see if a customer is eligible for a deferred payment agreement.

FUEL ALLOWANCE – the portion of a TA grant intended to meet the costs associated with the energy required to heat the dwelling unit of a TA case(s).

HEAT – Energy required heating a residential dwelling unit.

HEATING ALLOWANCE – formerly known as a "fuel for heating" allowance. It is the portion of a TA grant intended to meet the costs associated with the energy required to heat the dwelling unit of a TA case. It is county specific and is based on a twelve-month heating season, as well as the person's primary heating source.

HOME ENERGY FAIR PRACTICES ACT (HEFPA) – This Act provides procedures that exist between the OTDA and the PSC to ensure that districts and PSC regulated energy providers cooperate in resolving disconnections or threatened disconnections of elderly, blind or disabled households.

HOME ENERGY VENDOR – an individual or entity engaged in the business of selling electricity, natural gas, oil, propane, kerosene, coal, wood, or any other fuel used for residential heating and/or domestic (lights, cooking, hot water) energy.

LEGALLY RESPONSIBLE RELATIVE – The following are considered legally responsible relatives:

- A spouse for his/her spouse,
- A parent (natural or adoptive) for his/her children under age 21,
- A stepparent for his/her step children under age 21.

LETTER OF GUARANTEE – The district guarantees payment to the utility company by means of a letter of guarantee. The TA or SSI recipient maintains responsibility for payment of his or her utility bill and the utility is required to continue the normal billing process to the customer. However, in the event the TA or SSI recipient fails to pay the bill, the district must make the appropriate payment on behalf of the client.

NON-TEMPORARY ASSISTANCE (NTA) APPLICANT – an individual not in receipt of recurring TA (FA or SNA) or SSI.

NON-UTILITY – Energy other than electric or natural gas required for heat and/or domestic energy (i.e., propane, kerosene, oil, coal, wood, pellets, etc.).

PROVIDER OF LAST RESORT – Current PSC regulated utility companies are providers of last resort in the event that the ESCO goes out of business or terminates service to a customer.

RECONCILIATION – A process where an district reconciles the amounts restricted from a client and paid to the utility company.

SELF-MAINTAINING GRANTEE – A non-legally responsible caretaker of a dependent child in receipt of TA who is the customer and tenant of record. To be considered self-maintaining, the TA benefit paid on behalf of the dependent child must not include the needs of the grantee.

SHARED FUEL SOURCE – It is a common source of heating fuel used to provide heat to the tenant's own dwelling unit and to other space outside the dwelling unit that is not under the exclusive use or control of the tenant.

SHARED METERS – A shared meter is an energy meter that measures gas, electric, or steam service provided to a tenant's dwelling and also measures service to other space outside that dwelling, not under the exclusive use and control of the tenant, for which the tenant pays the charge.

SUPPLEMENTAL SECURITY INCOME (SSI) RECIPIENT – an individual in receipt of SSI benefits or State Supplement Program (SSP) payments.

TEMPORARY ASSISTANCE (TA) RECIPIENT – an individual in receipt of recurring TA FA or SNA.

TENANT OF RECORD – A person(s) who has primary responsibility for payment of the monthly shelter costs for his or her dwelling unit. A person(s) may also be considered a tenant of record if they own his or her own residence. An A/R/G is considered to meet the tenant of record requirement when the A/R/G is the legal spouse of the tenant of record residing in the same household or when the A/R/G is the surviving spouse of the deceased spouse who was the tenant of record.

NOTE: Individuals who contribute a portion of the monthly rent/mortgage to a person responsible for payment of the monthly shelter costs for his or her dwelling unit are not considered a tenant of record. In addition, a person(s) residing with a homeowner is not considered a tenant of record.

UTILITY – electric or natural gas supplied by a PSC regulated or non-PSC regulated supplier, required for heat and/or domestic energy.

UTILITY ARREARS REPAYMENT AGREEMENT – This is an agreement that an NTA applicant signs to repay the arrears assistance to the district within twenty-four months.

ATTACHMENT A

NOTICE OF UTILITY-RELATED ACTION

_____ County Department of Social Services

To: _____
(Utility Company)

_____

_____

_____
(Address)

Customer's Name: _____ District #: _____

Service Address: _____ TA Case #: _____

Account Number: _____

Dear Sir/Madam:

This is to inform you that for the above named individual, the _____Department of Social Services will take the following action(s):

1. Make an arrears payment of $_____for the period _____to _____. This client is **NOT** in receipt of temporary assistance or Supplemental Security Income (SSI). Your company should proceed with its normal collection efforts for future bills.

2. Make an arrears payment of $_____for the period _____to _____.

AND

   a. Send all future bills to this agency. Future utility bills will be paid directly by this agency. Please send all future bills to this agency for payment. All outstanding monies owed your company by this client shall be exempt from collection for as long as such client continues to receive, or would become in need of, temporary assistance or Supplemental Security Income (SSI).

   b. Send all future bills to this agency. However, this client is in receipt of non-cash Safety Net Assistance (SNA) and is only receiving heating fuel from your company. He/she has **not** provided this department with written permission to pay your company an amount in

excess of his/her heating allowance. Therefore, as required by Social Services Law § 159.1 (b) (ii), this department can only pay $_____per_____(month, bi-monthly) towards this client's heating bill. This amount represents the client's heating allowance and by law must be restricted and paid directly to his/her utility company. Any additional amount not paid by this department is the sole responsibility of the client and your company should proceed with normal efforts to collect this additional amount from the client. Any previously outstanding monies owed your company by this client shall be exempt from collection for as long as such client continues to receive, or would become in need of, temporary assistance or Supplemental Security Income.

c. Guarantee payment of all future utility bills for a period of six months effective from _____to _____or until the client's case is closed, whichever occurs first. All outstanding monies owed your company by this individual shall be exempt from collection for as long as such individual continues to receive, or would become in need of, temporary assistance or Supplemental Security Income if the collection were made. Your company should proceed with its normal collection efforts for future bills and provide our agency with written notification should the above person fail to make payment and your company issues a notice of non-payment. Such notification should be made to the local social services district at the same time the client is issued a notice of non-payment.

3. Terminate indirect (vendor) payment for the above-named individual, effective: _____. (Date)

4. Terminate guarantee for the above-named individual, effective: _____. (Date)

_____
(Signature of Worker)

_____
(Date)

ATTACHMENT B

CUSTOMER REQUEST FOR A SHARED METER INVESTIGATION

To: _____(Name of Utility Company)

_____(Address of Utility Company)

_____

I _____am requesting a shared meter investigation for the address
(name of customer)

for the address listed below:
_____

_____

My phone number is: _____

My account number is: _____

The owner of my building is: _____

The owner's address is: _____Owner's phone #: _____

_____

I believe that my dwelling is serviced by a shared meter because:

_____

_____

I am also requesting that, in addition to myself, the results of the shared meter investigation and any action resulting from the action be provided to:

_____County Department of Social Services

Department of Social Services
Contact Person Name and Phone _____

Customer Signature and Date _____
……
……
……
……