

Overview of Emergency Energy Benefits Available Through the DSS

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LIFE Conference

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Immediate Needs

- SSL § 133: a person in immediate need shall be granted emergency assistance pending completion of an investigation.
- 18 NYCRR 351.8(c)(3): payments must be made in less than 30/45 days to meet emergency circumstances.
- 18 NYCRR 351.8(c)(4): emergency grants made if not enough time to establish eligibility.

What is an Emergency?

Per 18 NYCRR 351.8(c)(3) and 02-ADM-2

- No fuel for heating during winter;
- Utility disconnect scheduling disconnection w/in 72 hours;
- Utilities have been disconnected.

Application Process

- Emergency Assistance (green form) submitted in person or mailed (home visit for homebound).
- Emergency Assistance for Families (EAF) may require additional form.
- Any adult member may file the application.

Same Day Interview

- Though application interviews are ordinarily scheduled within 7 days, an applicant with emergency needs should be interviewed “at once.”
- Utility emergencies trigger a same day interview and notice of acceptance or denial (02-ADM-2, p. 2).

Emergency Assistance Must be Granted in Time to Meet the Need

- The Agency must grant the assistance pending an investigation (can't take 30/45 days).
- May issue pro-rata grant or pre-investigation allowance.

Agency Duty to Inform

- 18 NYCRR 350.7(g): at the time of application the agency must also inform the applicant of availability of other forms of assistance/service whether public or private if applicant appears eligible therefor.

Emergency Assistance Eligibility Rules, Generally

- Must be tenant and customer of record.
- Income or resources earmarked for basic essentials cannot be considered available for meeting the emergency need.
- Agency can require exploration of community resources.
- Resources are not exempt to meet emergency, except for SSI, but must be liquid to be available.
- Expedited FH available if denied.

Program/Payment Categories

- Emergency Assistance to Needy Families (EAF)
- Emergency Assistance to Adults (EAA)
- Emergency Safety Net Assistance (ESNA)

EAF Eligibility

- Child under 21 (regulations and ADM state under 19 and a full-time student) or
- Child lived with the household for 12 months or lives with an adult relative; and
- Household need not be eligible for ongoing TA
- Income under **200%** of FPL.

EAF Eligibility Continued

- Emergency was a catastrophic occurrence causing destitution.
- Repayment of utility arrears for households with income above PA or SSI levels

EAA Eligibility

- Must be in receipt of or determined eligible for SSI.
- Not limited to adults.
- Has a need not met by regular income.

ESNA Eligibility

- Not eligible for EAF or EAA, or can be used in combination.
- No unforeseen requirement if under **125%** of poverty at time of application.
- Income cap not applied if emergency due to fire, flood or like catastrophe.
- Must use available resources but not credit card.

The Hierarchy of Assistance for Fuel/Utility Emergencies

- HEAP/Emergency HEAP must be used first
- Deferred payment arrangement with utility company (optional for some households)
- EAF
- EAA
- ESNA

Categories of Fuel/Utility Assistance

- TA recipients: no EAF; no repayment agreement if passes the “management test.”
- Non-TA recipients: maybe EAF, EAA, or ESNA; repayment agreements pursuant to SSL § 131-s

*Total arrears limited to 4 most recently completed billing periods

“Management Test”

- TA recipients receive a non-recoupable grant if they have “fully applied the public assistance grant to purposes intended to be included in such grant” (SSL § 131-s(2)(a); 18 NYCRR 352.5(f)(2)).
- Agency must only apply the “management test” to that portion of the payment period that the recipient was in receipt of TA.

“Management Test” Continued

- Agency looks for proof that the TA recipient made payments at least equal to:
 - The combined HEA and SHEA, budgeted in the grant, towards domestic energy costs;
 - The monthly fuel allowance budgeted in the grant towards the heating costs (if applicable);
 - The monthly shelter allowance, budgeted in the grant, towards shelter costs
- In addition, there must be no other evidence of mismanagement

Fuel/Utility Repayment Agreements

- For EAF or ESNA eligible non-TA households.
- Adult applicant (and spouse if in household) must sign the repayment agreement or the whole household is ineligible.
- Sanctioned persons **are** eligible for emergency utility assistance.

Case Example

Basic Facts:

- March 2015 – client began receiving TA benefits; no other income.
- Agency paid the entire public assistance grant of \$425 directly to her landlord every month.
- April 2015 – received a disconnect notice from National Grid due to unpaid arrears for the period of 12/10/14 to 4/13/15.
- Agency issued arrears payment and made the recipient sign a repayment agreement, which reduced her benefits by 10% every month.

Case Example Continued

Problems:

- No “management test” conducted.
- Agency argued that client would have failed the “management test” because she did not make the minimum payments toward her domestic energy and heating costs as required by the regulation (see slide 17).
- BUT client never made the payments because she never had control of any part of her public assistance grant

Case Example Continued

Open questions after the fair hearing decision:

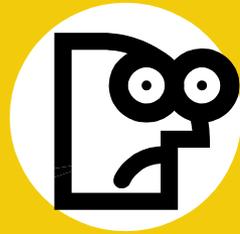
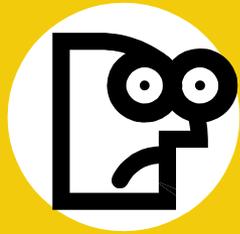
- Does a TA recipient fail the “management test” when the agency paid her entire public assistance to her landlord every month?
- Was her public assistance grant “fully applied . . . to purposes intended to be included in such grant?”
- Did the recipient “mismanage” her public assistance grant?

Case Example Continued

The fair hearing decision can be found online in the Office of Temporary and Disability Assistance's Fair Hearing Decision Archive at <http://otda.ny.gov/hearings/search/>

- Search for #7189849Y

Or email us for a copy!



It's QUESTION TIME!!

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