

RULE PROPOSALS

INTERESTED PERSONS

Interested persons may submit comments, information or arguments concerning any of the rule proposals in this issue until the date indicated in the proposal. Submissions and any inquiries about submissions should be addressed to the agency officer specified for a particular proposal.

The required minimum period for comment concerning a proposal is 30 days. A proposing agency may extend the 30-day comment period to accommodate public hearings or to elicit greater public response to a proposed new rule or amendment. Most notices of proposal include a 60-day comment period, in order to qualify the notice for an exception to the rulemaking calendar requirements of N.J.S.A. 52:14B-3. An extended comment deadline will be noted in the heading of a proposal or appear in subsequent notice in the Register.

At the close of the period for comments, the proposing agency may thereafter adopt a proposal, without change, or with changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-6.3. The adoption becomes effective upon publication in the Register of a notice of adoption, unless otherwise indicated in the adoption notice. Promulgation in the New Jersey Register establishes a new or amended rule as an official part of the New Jersey Administrative Code.

COMMUNITY AFFAIRS

(a)

DIVISION OF HOUSING AND COMMUNITY RESOURCES

Home Energy Assistance Handbook

Proposed New Rules: N.J.A.C. 5:49

Authorized By: Lt. Governor Sheila Y. Oliver, Commissioner,
Department of Community Affairs.

Authority: N.J.S.A. 52:27D-3(e).

Calendar Reference: See Summary below for explanation of
exception to calendar requirement.

Proposal Number: PRN 2018-056.

Submit written comments by August 17, 2018, to:

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The agency proposal follows:

Summary

N.J.A.C. 5:49, Home Energy Assistance Handbook, expired on August 3, 2017, pursuant to N.J.S.A. 52:14B-5.1. The Department of Community Affairs (Department) has reviewed the expired rules proposed herein as new rules and determined that the rules are necessary for the purpose for which they were originally adopted. Accordingly, the Department proposes to adopt the expired rules proposed herein as new rules. The Department also proposes amending certain provisions of the expired rules to reflect the fact that the Department, and not the Department of Human Services, now administers the Low Income Home Energy Assistance Program (LIHEAP) in New Jersey.

The expired rules proposed herein as new rules are summarized as follows:

Subchapter 1 provides information concerning the purpose of the program. It also provides rules pertaining to requests for fair hearings and explains the principles of the "prudent person concept," under which those who administer the program are expected to act when situations arise that are not specifically addressed by the rules.

Subchapter 2 sets forth both financial and non-financial eligibility requirements for LIHEAP. Non-financial requirements address State residency, household definitions, alien status, and whether the applicant is a striker. Financial eligibility requirements include income limits and determination of countable income.

Subchapter 3 describes the types of benefits available under LIHEAP. It also provides payment schedules for different household and heating situations, as well as information concerning eligibility for cooling assistance and emergency assistance under LIHEAP.

Subchapter 4 contains provisions regarding the application process for LIHEAP, as well as verification and documentation procedures.

Subchapter 5 concerns the administration of the program. Requirements include the establishment of Home Energy Assistance Units, adequate notice of agency action and appeal rights, overpayment recovery procedures, and outreach activities.

The Department proposes to amend N.J.A.C. 5:49-1.1(b) to replace the references to the New Jersey Department of Human Services with the Department, in regard to fair hearing determinations.

The Department proposes to amend N.J.A.C. 5:49-2.3(a) to eliminate the reference to the Department of Human Services. The Department of Community Affairs (DCA) is the administrative agency.

The Department proposes to amend N.J.A.C. 5:49-3.1(a)1 to clarify the types of households that will be screened automatically for LIHEAP payments. In addition to automatic screening of Supplemental Nutrition Assistance Program clients, the program will automatically screen Pharmaceutical Aid to the Aged and Disabled (PAAD) clients, who include Medicare Low-Income Subsidy participants.

The Department proposes to amend N.J.A.C. 5:49-3.1(a)2 to clarify that both the Food Stamps (FAMIS) and PAAD extracts will be utilized in automatically selecting LIHEAP clients. Additionally, N.J.A.C. 5:49-3.1(a)1 and 2 are amended to reference LIHEAP rather than HEA as LIHEAP is the correct name of the program.

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The expired rules proposed herein as new rules and the proposed amendments implement a Federal program intended to protect the health, safety, and welfare of low-income people by helping them to avoid hardship due to inadequate heating or cooling.

Allowing PAAD clients to be screened automatically for LIHEAP benefits would increase the number of eligible households by outreaching these clients more effectively.

Economic Impact

Inasmuch as the LIHEAP is entirely Federally funded, the program does not have any State budgetary impact.

Federal Standards Statement

The expired rules proposed herein as new rules and proposed amendments are being proposed in order to implement a program established under 45 CFR Part 96, the Federal rules that implement the Low Income Home Energy Assistance Act of 1981. They do not exceed the requirements of Federal law.

Jobs Impact

The expired rules proposed herein as new rules and proposed amendments are not expected to have any impact on jobs.

Agriculture Industry Impact

The Department does not anticipate that the expired rules proposed herein as new rules and proposed amendments would impact the agriculture industry.

Regulatory Flexibility Statement

The expired rules proposed herein as new rules and proposed amendments are not expected to impose any reporting, recordkeeping, or compliance requirements on “small businesses” as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules govern implementation in New Jersey of a Federal program designed to assist low-income households in securing assistance in paying necessary heating and cooling costs.

Housing Affordability Impact Analysis

The expired rules proposed herein as new rules and proposed amendments are intended to make changes of a technical or corrective nature to the Low Income Home Energy Assistance Handbook. It would not be likely to have an impact on the average costs of housing or to affect the affordability of housing in general.

Smart Growth Development Impact Analysis

The expired rules proposed herein as new rules and proposed amendments are intended to make changes of a technical or corrective nature to the Low Income Home Energy Assistance Handbook. It would not be likely to have any impact upon housing production within Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan.

Full text of the expired rules proposed herein as new rules may be found in the New Jersey Administrative Code at N.J.A.C. 5:49.

Full text of proposed amendments to the expired rules proposed herein as new rules follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. GENERAL PROVISIONS

5:49-1.1 Fair [Hearings—DFD/DCA] **Hearings—DCA**

(a) (No change.)

(b) Each household requesting a hearing will receive an initial review on the papers available to [DFD (Division of Family Development) or] the Department of Community Affairs’ (DCA’s) Division of Housing and Community Resources (DH & CR). The results of this administrative review will be conveyed to the household in writing, whereupon the household may either accept the findings of the [DFD or] DH & CR as the final decision or indicate its desire to proceed with a fair hearing.

(c) (No change.)

SUBCHAPTER 2. PROGRAM ELIGIBILITY

5:49-2.3 Income eligibility—DCA/DHS

(a) In order to be income eligible for the program, a household’s monthly gross earned and unearned income may not exceed the monthly allowable gross income limit for the household size. On an annual basis, the Department of [Human Services] **Community Affairs** shall revise the income guidelines based on the current Federal Poverty Index, which is published annually in the Federal Register by the Federal Department of Health and Human Services. The Department will use 175 percent of the current Federal Poverty Index as the maximum gross income amount for LIHEAP eligibility. However, income eligibility may not exceed 60 percent of the State median income.

(b)-(f) (No change.)

SUBCHAPTER 3. PROGRAM BENEFITS

5:49-3.1 Automatic payments to certain households[—DFD]

(a) Recipient households:

1. Certain households eligible for [Food Stamps (FS)] **Supplemental Nutrition Assistance Program (NJ SNAP)** will receive automatic payments based on the information regarding income, household size, heating arrangement, and fuel type contained in computer records maintained by the Division of Family Development (**DFD**). This information will be collected from the head of the household at each application, reapplication, or recertification for [FS] **NJ SNAP** and will be updated whenever the household reports a change. The automatic [HEA] **LIHEAP** payment will be extracted from the DFD’s Family Assistance Management Information System (FAMIS). The households [which] **that** may be extracted include certain households eligible for and receiving [FS] **NJ SNAP**. The case must have an appropriate heating indicator and contain a payee with a valid Social Security number (SSN). The household must have a current monthly income [which] **that** is less than or equal to the program’s standards. Additionally, there must be no duplication of SSNs or any disqualifying information which would lead to non-selection of the case. Those households non-selected for an automatic payment may be eligible for benefits. They will receive a notice instructing them where to apply. Households [which] **that** are responsible for primary fuel costs associated with residential heat shall receive a benefit based on the appropriate benefit level for the household’s size, income, fuel type, and heating region. **Additionally, Pharmaceutical Aid to the Aged and Disabled (PAAD) clients shall be screened for automatic LIHEAP eligibility utilizing the same criteria as NJ SNAP clients. Automatic LIHEAP client data shall be extracted from FAMIS and the Department of Health (DOH) PAAD database. Households extracted from these databases shall have an appropriate heating indicator and a valid Social Security number. The households must have a current monthly income that is less than or equal to the program’s standard. Additionally, there will be no duplication of Social Security numbers or other disqualifying information which would lead to non-selection of the case.**

i.-ii. (No change.)

2. Eligible households [which] **that** heat by electricity or natural gas will receive the automatic payment(s) in the form of a direct transfer to the utility when a valid utility account number or other acceptable match criteria exists on the [Food Stamp] **FAMIS or PAAD** extract. Match criteria shall be collected during the [Food Stamp eligibility] **FAMIS- or PAAD-eligibility** determination process. Households [which] **that** heat by oil, coal, wood, propane, and kerosene or do not have a valid account number or other acceptable match criteria on the [HEA] **LIHEAP** Masterfile will receive the automatic payment(s) in the form of a two party check payable to the head of household and the generic copayee “Your Heating Supplier.”

HEALTH

(a)

**PUBLIC HEALTH SERVICES BRANCH
DIVISION OF MEDICINAL MARIJUANA
Medicinal Marijuana**

Proposed Readoption with Amendments: N.J.A.C. 8:64

**Proposed Repeal and New Rule: N.J.A.C. 8:64-5.1
Proposed Repeal: N.J.A.C. 8:64-10.7**

Authorized By: Shereef M. Elnahal, MD, MBA, Commissioner,
Department of Health.

Authority: N.J.S.A. 24:6I-1 et seq., particularly 24:6I-3, 4, 7, and 16.

Calendar Reference: See Summary below for explanation of
exception to calendar requirement.

Proposal Number: PRN 2018-057.