



**NEW YORK STATE
OFFICE OF TEMPORARY AND DISABILITY
ASSISTANCE
40 NORTH PEARL STREET
ALBANY, NY 12243-0001**

David A. Paterson
Governor

Administrative Directive

Section 1

Transmittal:	09-ADM-17
To:	Local District Commissioners
Issuing Division/Office:	Center for Employment and Economic Supports
Date:	October 15, 2009
Subject:	Changes to the Utility Arrears Repayment Agreement Terms and Enforcement Option
Suggested Distribution:	Temporary Assistance Directors Staff Development Coordinators
Contact Person(s):	Temporary Assistance Bureau: 1-800-343-8859; ext 4-9344
Attachments:	Attachment A: Summary of Previously Released Utility Repayment Agreements: Questions and Answers Attachment B: Utility Arrears Repayment Agreement
Attachment Available On-Line:	<input checked="" type="checkbox"/>

Filing References

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
09 ADM-13 08 INF-09 06 INF 21 05 INF-11 96 ADM-09 93 INF-11 92 ADM-26		18 NYCRR §352.5 (c)(e)	SSL § 131-s Chapter 318 of the Laws of 2009	Energy Manual Sections VIII and XV	LDSS-4884 (5/06) GIS 09TA/DC 026 GIS 08TA/DC 026 GIS 05TA/DC 048

Section 2

I. Summary

This Administrative Directive (ADM) provides information regarding a local district's option to suspend the enforcement of utility repayment agreements, during the cold weather period, for households defaulting on an existing utility repayment agreement and applying for assistance with a current utility (natural gas and/or electricity) related emergency. For the purpose of this suspension only, the cold weather period is defined as November 1st of each year and ending April 15th of the following year.

This ADM provides notice to all local districts that Chapter 318 of the Laws of 2009 amends Social Services Law § 131-s by requiring the term of any utility repayment agreement signed on or after August 11, 2009 be extended from 12 months to 24 months. As a result, the Utility Arrears Repayment Agreement form (Attachment B) or any local equivalent should be modified to reflect the extension in that repayment term. This change is not a local district option. This change has no impact on the terms of the Shelter Arrears Repayment Agreement.

II. Purpose

The purpose of this ADM is to provide details to the local districts regarding recent changes to Temporary Assistance energy assistance related policy relating to the optional suspension of utility arrears repayment agreements during the period of cold weather as defined in regulation. Additionally, this release advises districts of a mandatory change in the terms of Utility Arrears Repayment Agreements entered into on or after August 11, 2009.

III. Background

In accordance with SSL §131-s(1) and 18 NYCRR § 352.5(e), certain households with a utility (electric or natural gas) emergency are required to sign a Utility Arrears Repayment Agreement as a condition of eligibility for an emergency Temporary Assistance (TA) utility arrears payment. A Non-Temporary Assistance (NTA) household must sign such a repayment agreement as a condition of receiving utility arrears assistance when the customer and tenant of record is not categorized as a TA or Supplemental Security Income (SSI) household at the time of request for emergency assistance. Additionally, the NTA household's gross monthly income on the date of application must exceed the TA standard of need for that household size. The terms of the agreement require repayment within two years (one year prior to August 11, 2009) from the date of the payment. To receive subsequent utility arrears payments, the household must have repaid the previous repayment agreement or be current on the payment obligations of any prior utility arrears repayment agreement.

An amendment to the regulation 18 NYCRR § 352(e) now provides districts with the option of suspending the enforcement of previous and new repayment agreements during the cold weather period, as defined in regulation for individuals defaulting on an existing utility arrears repayment agreement but facing a new utility (natural gas and/or electricity only) emergency. Additionally,

beginning August 11, 2009, Chapter 318 of the Laws of 2009 now extends the term of the repayment agreement from one year (12-months) to two years (24-months).

Note: Recipients of recurring TA or SSI are not required to sign a Utility Arrears Repayment Agreement for utility payment assistance.

IV. Program Implications

Definition of Terms Specific to Utility Arrears Repayment Agreements

- **Utility Arrears Repayment Agreement:** This is an agreement that an NTA applicant and his/her spouse sign to repay the arrears assistance to the district within twenty-four months.
- **Household:** A household includes all persons residing in the applicant's dwelling unit, including related and unrelated persons, such as lodgers, roomers and boarders, foster children and wards or employees who share the dwelling unit.
- **Gross Income:** Gross income is all income (earned, unearned and in-kind) before any deductions are taken, including such income of all persons in the household definition.
- **Dwelling Unit:** A dwelling is a house, apartment, trailer, duplex, room(s) or other living quarters used as a home by members of a household.
- **Cold Weather Period: (exclusively for the suspension of a Utility Repayment Agreement) is November 1st of each year and ending April 15th of the following year.**

Temporary Assistance Standard of Need

The Temporary Assistance Standard of Need is the sum of the following items for the same household size:

- **Basic allowance (Schedule SA-2a)**
- Home Energy allowance (HEA) (Schedule SA-2b)
- Supplemental Home Energy Allowance (SHEA) (Schedule SA-2c)
- Shelter allowance as paid not to exceed maximum amount in Department Regulations 18 NYCRR § 352.3
- Heating allowance if the applicant is the tenant of record and customer of record for the residential heating bill (Schedules SA-6a, SA-6b or SA-5)

Utility Arrears Repayment Agreements continue to use the standard of need in effect on the date of application for assistance.

NTA Households include those households where, at the time of the request for emergency assistance, the customer of record is:

- not in active receipt of TA or SSI
- a grantee in receipt of TA for dependent children and the grant is **not** budgeted with a heating allowance
- under a TA sanction and the TA case is closed as a result of the sanction.

NOTE: NTA households include applicants for recurring Temporary Assistance.

The customer of record must also be the tenant of record (or spouse or surviving spouse) in all cases.

The district choosing to suspend enforcement of the terms of utility arrears repayment agreements for a household facing a new utility emergency, and who is in default of existing Utility Arrears Repayment Agreement(s), must process the request for subsequent utility arrears payments without regard to the status of the repayment obligations of any previous Utility Arrears Repayment Agreement. This suspension does not uniformly suspend the repayment terms of all of a district's utility arrears repayment agreements, but involves only those households with unmet repayment terms when the applicant applies for assistance to meet a subsequent utility emergency. The suspension option does not preclude the applicant's eligibility requirement of signing a new Utility Arrears Repayment Agreement before the local district authorizes a TA payment to meet the utility emergency. The terms of a new Utility Arrears Repayment Agreement signed during the suspension period begin on April 16th with a two-year term, regardless of when the assistance was granted. For any previous utility arrears repayment agreements, the repayment terms will resume on April 16th, adjusted to compensate for the suspension period. This could result in some individuals having more than one repayment agreement in effect at the end of the suspension. Although a local district has decided to offer the suspension, recipients of the suspension may continue to make payments on utility arrears repayment agreements during this period.

If a district chooses to suspend enforcement of utility arrears repayment agreements for an upcoming cold weather period, the district must apply the suspension criteria uniformly across all applications for TA emergency utility assistance. This policy does not affect a district's ability to secure a lien for emergency energy assistance as granted under Family Assistance, Safety Net Assistance, Emergency Safety Net Assistance or Emergency Assistance to Families.

If an applicant signs a Utility Arrears Repayment Agreement and then becomes eligible for TA or SSI, districts must suspend any unpaid balance on his/her arrears payment until such person is no longer receiving TA or SSI. Suspended utility arrears repayment agreements are **not** subject to recoupment. When the person no longer receives TA or SSI benefits, the unpaid balance will again become due to the district under the terms of the agreement.

Applicants facing non-utility (other than electric or natural gas) heating emergencies are not required to sign repayment agreements.

The terms for any new Utility Arrears Repayment Agreement signed on or after August 11, 2009 increase from one-year (12-months) to **two years (24-months)** from the date of the assistance payment.

These policy changes are **not** applicable to Emergency Safety Net Assistance repayment agreements for shelter arrears.

V. Required Action

Local districts must determine whether they will choose the option to suspend the enforcement of Utility Arrears Repayment Agreements prior to November 1, 2009, and must maintain this option for the duration of the cold weather period, defined for this suspension as November 1st through April 15th. Local districts choosing this option, must apply the option district-wide when an NTA household makes a request for assistance with a utility emergency and has an outstanding agreement in default of the repayment terms of the original terms of the Utility Arrears Repayment Agreement. Districts are not required to notify OTDA of their decision to choose this option.

Districts must begin using the attached (Attachment B) Utility Arrears Repayment Agreement Form immediately. For those repayment agreements signed on or after August 11, 2009, but prior to the release of GIS 09 TA/DC026 on September 1, 2009, which included the newly revised Agreement, districts must recalculate the terms of those Agreements and advise the impacted recipients of the reduced payment due the agency. The change to the repayment term of the agreement is not a district option.

VI. Systems Implications: None.

Note: Districts remain responsible for establishing a procedure to track the status of suspended Utility Arrears Repayment Agreements for the NTA households addressed in this ADM.

VII. Additional Information:

Attachment A provides a summary of previously released question and answers relevant to utility repayment agreements.

VIII. Effective Date:

Optional suspension of Utility Arrears Repayment Agreement, Effective November 1, 2009.

Change in Terms of Repayment Agreement, Effective August 11, 2009.

Issued By

Name: Russell Sykes

Title: Deputy Commissioner

Division/Office: Center for Employment and Economic Supports

Summary of Previously Released Utility Repayment Agreements: Questions and Answers

1. Q. When an adult child, who resides in the same apartment as his or her parent, applies for emergency assistance, whose income is counted if both names are on the lease and utility bill? (The adult child meets the tenant of record and customer of record requirements.) Who has to sign the utility repayment agreement if the parent is the only household member with income?
 - A. All the household income is counted. As the applicant, only the adult child has to sign the utility repayment agreement. (08-INF-09 Attachment A)

Note: The same would be true for a boyfriend and girlfriend or non-legally responsible relative residing in the same household. If both are legally responsible for one another (i.e., husband and wife), then both adults would sign the repayment agreement (08-INF-09 Attachment A)
2. Q. When a district issues a utility arrearage payment and should have had the client sign a repayment agreement, should the district correct its mistake and require a repayment agreement for the past benefit?
 - A. No. (08 INF-09, Attachment A)
3. Q. May a household that received a utility shut-off payment with one household member signing a repayment agreement and subsequently defaulting on the agreement, receive another utility shut-off payment based on the signing of another repayment agreement by the other non-legally responsible relative (NLRR) household member?
 - A. Yes, if the NLRR is the customer and tenant of record for the shut-off period and agrees to sign a repayment agreement. (06-INF-21)
4. Q. Are Shelter and Utility Arrears Repayment Agreements that may be required for Emergency Temporary Assistance payments, entered into CAMS?
 - A. No, only repayment agreements for assistance groups 1 (FS) and 2 (PA) are entered into CAMS. Shelter and Utility Arrears repayment agreements are in assistance group 4 (Emergency Assistance). (05- INF- 01)
5. Q. What are the consequences if a non-legally responsible adult refuses to sign a shelter or utility repayment agreement?
 - A. The adult applicant or his/her spouse must sign the agreement or the entire household is ineligible for the emergency payment. (03-INF-25)
6. Q. If there is a NTA customer and tenant of record whose spouse is a SSI recipient, should the SSI spouse sign the "Utility Arrears Repayment Agreement"?
 - A. Yes, if the household is subject to a "Utility Arrears Repayment Agreement", the applicant and their spouse must sign the agreement". (99 INF-13)
7. Q. Should an agency get a repayment agreement for EAF for utilities?
 - A. Yes, unless the household is exempt from the repayment requirement. (See 92 ADM-26, Section IV-E Repayment of Utility Arrearage Assistance). (93 INF-11)

8. Q. Can the Utility Repayment Agreement be considered a legal document?
- A. Yes. A repayment agreement for a grant for utility arrears or shelter arrears is a legally binding contract. (93-INF-11)
9. Q. If an individual defaults on a utility arrearage repayment agreement, does the individual become ineligible for HEAP?
- A. HEAP eligibility is not tied to the repayment agreement. (93 INF-11)
10. Q. Can an individual get a fair hearing on a utility arrearage repayment agreement? If the individual comes in during this time with another emergency, could the individual enter into another agreement?
- A. Yes. However, in order to be eligible to enter into another agreement, the individual would have to be current with payments on the previous agreement regardless of fair hearing status. This is also true for shelter arrears. (93 INF-11)
11. Q. If utility payment is made under EAF, EAA or ESNA is a utility agreement required?
- A. Only EAF and ESNA are looked at for repayment of utility arrears. (93 INF-11)
12. Q. An individual enters into a shelter or utility arrearage repayment agreement and subsequently the individual files for bankruptcy. How is the repayment agreement treated?
- A. It would be treated the same as any other legally binding agreement. It would not receive priority over any other bills that the individual had incurred. This is also true for utility arrears. (93 INF-11)

UTILITY ARREARS REPAYMENT AGREEMENT

(ELIGIBILITY WORKSHEET AND AGREEMENT)

1. APPLICANT INFORMATION

A. Name: _____

Address: _____

Case Number: _____ Case Category: _____

B. Is applicant the customer of record?

Yes. Proceed

No. The customer of record must come in to apply.

C. Household size:

(Include all persons residing in the applicant's house or apartment and their social security numbers)

D. Is the customer of record in receipt of TA or SSI (or additional State payments) on the date of application?

Yes, Repayment Agreement **not** required (regardless of category of assistance under which the arrears are paid).

No, proceed to E.

E. Household's gross monthly income on the date of application is \$_____.
(include all earned and unearned income for all persons residing in the house or apartment)

For employed persons, include the name, address and telephone number of the employers(s) beside the person's name.

F. TA standard of need for the household size in 1.C \$ _____

This is the sum of the following 6 items:

1. Basic Allowance (Schedule SA-2a) _____
2. Home Energy Allowance (Schedule SA-2b) _____
3. Supplemental Home Energy Allowance (Schedule SA-2c) _____
4. Shelter Allowance as paid, not to exceed maximum amount in Department regulation 352.3(a) _____
5. Heating Allowance if the applicant is the tenant and customer of record for the residential heating bill (Schedules SA-6a, SA-6b or SA-6c) _____
6. If applicable, the additional cost of meals for persons unable to prepare meals at home (Schedule SA-5) _____

G. Is "E" (gross monthly income) greater than "F" (TA) monthly standard of need)?

No, Repayment Agreement **not** required.

Yes, Repayment Agreement is required; **proceed to Part 2**

1. REPAYMENT AGREEMENT

I understand that as a condition of eligibility for receiving utility arrears assistance, I agree to repay the _____ Department of Social Services the following amount: \$ _____ utility arrears assistance to restore service or to prevent termination.

I agree to repay this amount within twenty-four (24) months. I will repay the assistance, in full, in installments of \$ _____ per _____ (month, bi-weekly etc.).

Each installment must be received by the _____ Department of Social Services on or before the _____ of each _____. The first installment is due on or before _____ (enter date).

The payments must be sent to:

I understand that I will not be eligible for subsequent utility arrears assistance to restore service or prevent termination unless I have fully repaid any prior utility arrears payments that were subject to repayment; or I am repaying this assistance in accordance with the terms of any Repayment Agreement(s); or my household's income is below the Temporary Assistance standard of need for my household size as of the date of application for such subsequent assistance. I also understand that if I fail to repay this assistance within the twenty-four (24) month period, the _____ Department of Social Services will enforce this Repayment Agreement by any method available to a creditor. This includes, but is not limited to, referring the matter to a collection agency, obtaining a judgment from a court, obtaining a lien on real property or garnishing wages in appropriate cases.

I understand that the _____ Department of Social Services also has the right to require that I sign a lien on my real property for receiving a utility arrears payment authorized under Emergency Safety Net Assistance or Emergency Assistance to Families. If a lien is taken, that portion which represents this arrears payment will be reduced by payments made under this agreement.

If I later become eligible for recurring Temporary Assistance, any unpaid balance of this arrears payment will be suspended until I am no longer receiving recurring Temporary Assistance. At that time, the unpaid balance will become due to the _____ Department of Social Services under the terms of this agreement.

I understand that by signing this form, I agree to all of the above conditions.

Signature(s) of Applicants

Date

(spouse)

Signature of Designated Agency Personnel

Date
