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 | ADMINISTRATIVE DIRECTIVE |
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TRANSMITTAL: 93 ADM-26

TO: Commissioners of
 Social Services

DIVISION: Economic
 Security

DATE: September 3, 1993

SUBJECT: Social Services District Implications of Chapter 713 of the
 Laws of 1981 (Home Energy Fair Practices Act)

SUGGESTED
 DISTRIBUTION:

All Public Assistance Staff
 All Protective Services for Adults Staff
 All Staff Development Coordinators

CONTACT
 PERSON:

Bureau of Energy Programs Liaison,
 1-800-342-3715, extension 4-9321

ATTACHMENTS:

Attachment I - HEFPA Social Services District Client
 Contact Letter (Threat of Termination)
 Attachment II - HEFPA Social Services District
 Client Contact Letter (Dormant Account)

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
87 ADM-51	82 ADM-69	Part 457	Home Energy		
82 ADM-69		Part 397	Fair Pract.		
		Part 394	ACT (HEFPA)		
			Chapt. 895		
			of the Laws		
			of 1981		

I. PURPOSE

The purpose of this release is to provide social services districts (SSD) with modified procedures to handle utility company referrals generated by the Home Energy Fair Practices Act (HEFPA) of 1981. This legislation extended protection to residential utility customers faced with termination of service due to non-payment, theft of service or meter tampering.

II. BACKGROUND

On July 21, 1981, the Home Energy Fair Practices Act was signed into law. The statute consolidated the responsibilities of gas, electric, and steam utilities and extended the rights of their 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."

For the past decade both the Public Service Commission (PSC) regulated utilities and the SSDs have worked to meet the demands of HEFPA requirements outlined in state regulation and administrative directive. Over the years the number of referrals made by the utility companies has progressively increased to the point that larger SSDs have found it difficult to meet the administrative mandates of previous HEFPA related administrative directives.

In response to this situation, this Department has reassessed its mandated HEFPA procedures and has developed a modified approach which will enable all SSDs to more efficiently implement the protections afforded by HEFPA, to insure a more timely service to affected households, and to place the highest priority on households with identified potential impairments.

III. PROGRAM IMPLICATIONS

A. PSC Regulated Utility Actions

PSC-regulated utility companies shall refer to the SSD those families and individuals which:

1. have had their utilities disconnected or are threatened with a utility disconnection

and

2. meet one of the following established criteria:

- a. Elderly, Blind, or Disabled Household (EBD)
- b. Suspected Serious Impairment (SI)
- c. Neglect or Hazardous Situation (NHS)
- d. Dormant Account Review

B. Elderly, Blind or Disabled Households

These procedures are in effect year-round.

1. A household will be designated "Elderly", "Blind", or "Disabled" when the residential customer of record is known to be blind, disabled, or 62 years of age or older, and all remaining residents of the household are 62 years of age or older, 18 years of age or younger or blind or disabled.

- a. A person will be designated "Disabled" if the person has a disability as the term is defined in the Human Rights Act (Executive Law, 292(21)). The definition is as follows:

"The term 'disability' means a physical, mental or medical impairment resulting from anatomical, physiological or neurological conditions which prevents the exercise of a normal bodily function or is demonstrable by medically accepted clinical or laboratory diagnostic techniques, a record of such impairment or a condition regarded by others as such an impairment.

- b. A person will be designated "Blind" if the person has central visual acuity of 20/200 or less in the better eye with the use of correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual fields subtends an angle no greater than twenty degrees shall be considered as having central visual acuity of 20/200 or less.

2. The utility must make an Elderly, Blind, or Disabled referral if the above criteria are met and a plan to avoid service termination cannot be made after contact with a responsible adult at the customer's premises or if diligent efforts to contact a responsible adult at the premises facing a termination of services have been unsuccessful. Contact includes but is not limited to a diligent effort by the utility to telephone an adult resident at the customer's premises at least 72 hours prior to service termination to devise a plan that precludes termination and that arranges for payment of bills. If telephone contact

is unsuccessful, in person contact must be attempted. If service has been terminated and the customer or a third party on the customer's behalf notifies the utility that he/she meets the elderly, blind, or disabled criteria, the utility must make a diligent effort to telephone or to make an in person visit to an adult resident at the customer's premises within 24 hours, to devise a plan to restore service and to arrange for payment of bills.

C. Suspected Serious Impairment

These procedures are in effect November 1 - April 15 for heat related service only.

"Heat related service" is utility service provided under a rate classification applicable to residential space heating or utility service necessary to start or operate the primary heating system. It also includes a safe, supplemental electrical heating device, if the residential customer has informed the utility in writing within the last twelve (12) months that such a device is needed because inadequate heat is provided by a third party who controls the primary heating system.

1. A serious impairment to human health and safety is indicated if a customer, or other person residing in the premises:
 - a. appears to be seriously impaired; or
 - b. may be unable to manage his or her own resources, to carry out activities of daily living, or to protect his/herself from neglect or hazardous situations without assistance from others because of mental or physical problems. Serious impairment indicators include but are not limited to:
 - (1) age, infirmity or mental incapacitation
 - (2) use of life support systems, such as dialysis machines or iron lungs
 - (3) serious illness
 - (4) physical disability or blindness
 - (5) any other factual circumstances which indicate severe or hazardous health situations.

The above criteria are general standards. Utility company field personnel must exercise discretion, sound judgement and common sense in determining cases to be referred to the SSD because of suspected serious impairment. As a rule, doubts on the part of field personnel must be resolved in the customer's favor and districts must cooperate in assessment of such cases.

2. The utility company staff must attempt to identify serious impairment situations during each of the following review processes:

a. Review after a final termination notice is issued and before service is actually disconnected. The utility must attempt to telephone or to visit, in person, the customer or an adult resident at the customer's premises at least 72 hours before the intended termination. At a minimum, the utility company staff must attempt to telephone once during normal business hours, and if unsuccessful, during reasonable non-business hours. If both telephone calls are unsuccessful, or if the customer does not have a telephone, the utility company staff must make an on-site personal visit. In addition, at the time of termination, utility personnel must also attempt to make personal contact with the customer or an adult at the residence. When personal contact is made during the review and a potential serious impairment situation is identified, service must be continued.

If the utility company staff are unable to make personal contact with the customer or other adult household member at the time of shut off, and there is no collateral contact (e.g., with a neighbor) which would indicate the existence of a possible serious impairment, service may be terminated. A "no contact" referral to the local district at this point would be inappropriate. The utility company staff should follow the procedures as described below in Section C.2.(b) Review after service is actually disconnected.

b. Review after service is actually disconnected. If a customer was not personally contacted by the utility prior to the disconnection and has not asked the utility to reconnect service before 12 noon on the day following termination of service, the utility company staff will immediately attempt to make an on-site direct personal contact.

When the utility company staff identify a potential serious impairment situation during the review they must reconnect service immediately and promptly refer the case to the SSD. Also, a referral to the SSD must be made following the review when the utility company staff are unable to make personal contact with the customer and have no reasonable basis to believe the customer has vacated the premises.

D. Neglect or Hazardous Situation

These procedures are in effect November 1 - April 15, for both heat and non heat related service.

A Neglect or Hazardous Situation involves a household where a serious impairment to health or safety is likely to result from termination of service and the customer is unable to manage his/her resources or to protect himself/herself from neglect or hazardous situations without the assistance of others, because of mental or physical problems.

For these households, the utility must continue utility service (both heat and non-heat) to the customer and make a referral to the SSD. The households which meet the above criteria will be identified by their response to the utility's annual notification of rights, by districts, local office for the aging, board of health, or other responsible agency or person, or by any utility personnel.

A referral will only be made to the SSD when a hazardous situation has been definitely identified. The utility company referral must fully explain the nature of the serious impairment to health or safety.

E. Dormant Account Review

During the months of September and October of each year the utility company will attempt to conduct a survey of all customers with heat related utility service which was terminated during the 12 month period beginning November 1st of the previous year and ending November 1st of the current year. When such a review identifies a suspected serious impairment, the utility company must follow the procedures described in Section C.2.(b) above.

It should be noted that dormant account referrals will also be generated when the utility company is unable to make personal contact with the household or an adult resident, and there is no reasonable grounds to believe the former customer has permanently vacated the premises; or whenever a customer refuses service restoration for reasons other than a change of heating source.

IV. REQUIRED ACTION BY SOCIAL SERVICE DISTRICTS

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

A. General Requirements for Social Services District Contact with Referred Households

NOTE: The following steps do not exhaust the systems available to districts. Each district may enhance the following procedures according to its own needs and capabilities and in accordance with a plan submitted by the district to this Department for prior approval.

1. Liaison to Utility

Each social services commissioner shall designate a staff member to function as liaison to the local utility company(ies) to insure timely and effective implementation of these procedures. Such designees shall cooperate with designated utility company liaison(s).

2. Receipt of Referrals

The district liaison shall receive written referrals of cases from the utility company(ies) on referral forms prescribed by the PSC/NYSDSS (DSS-2338).

The utility company staff will make referrals to district in a manner as described in section III above.

3. Match Against Eligibility Files

The SSD staff must first screen all referrals against Welfare Management Systems (WMS) public assistance records to determine if the customer is a current recipient. Also, the SSD income maintenance staff shall thoroughly review case files in order to make the appropriate determination before contacting the utility company.

4. 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 SSD 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.

B. Specific Procedures for Contact With Each Household Category:

1. Elderly/Blind/Disabled

At a minimum, the SSD must send a letter to all referred households as described in IV.A.(4) above.

Note: If the utility referral specifically states that the customer is blind, the SSD must take appropriate steps to insure that Adult Services is involved to coordinate such individual applications for financial assistance to continue or to restore service.

2. Suspected Serious Impairment

- a. The SSD must attempt an in person contact where the utility referral indicates suspicion of or verification of serious impairment. First, the district must attempt a phone contact with the household. If unsuccessful, the district staff must make a home visit to the household's address of record. If an in person contact cannot be made during the home visit, the district staff must leave a letter as described in IV.A.(4) above.
- b. The SSD must send a letter as described in section IV.A.(4) above to each customer household where the utility referral indicates "no contact" and there is no indication of potential serious impairment verified through collateral contact. The letter must be sent no more than 24 hours after the district receives the referral.

3. Neglect or Hazardous Situation

Where the utility referral indicates an identified neglect or a hazardous situation the SSD must attempt an in person contact using the following steps: First, the SSD must attempt a phone contact with the household. Second, if phone contact is unsuccessful, the SSD staff must make a home visit to the household's address of record. Third, if an in person contact cannot be made during the home visit, the SSD staff must leave a letter as described in section IV.A.(4) above.

4. Dormant Account

The SSD must send a letter as described in section IV.A.(4) above to each household referred by the utility as a dormant account. However, if the referral indicates that service was restored to the dormant account household because of a suspected serious impairment, the SSD must follow the contact procedures as described in section IV.B.(2) above.

5. Report to the Utility Company

- a. Elderly Blind or Disabled - The SSD does not have to respond to the utility company for elderly, blind, or disabled referrals.
- b. Suspected Serious Impairment - The service should be continued or restored by the utility company if contact has been made with the household by the utility representative and a serious impairment is suspected. It is necessary for the SSD to make a subsequent response to the utility company to either confirm or deny the impairment. This response must be made verbally within fifteen (15) business days from the receipt of the referral. A formal response in writing must follow and must be made within thirty (30) business days of the initial referral.

No response to the utility company is necessary for a no contact referral unless a serious impairment is subsequently suspected or identified as a result of SSD contact with the household in response to its letter.

- c. Neglect or Hazardous Situation - Since the neglect or hazardous situation referral can only be made as a result of direct utility/customer contact, SSD response to the utility company is necessary for each referral. The timetable for making the response to the utility company is equivalent to the timetable set for Suspected Serious Impairment as described in section IV.B.(5)(b) above.
 - D. Dormant Account Review (DAR) - Unless a suspected serious impairment situation is identified, a SSD response to the utility company will not be necessary for each dormant account referral.
6. Implications of Social Services District Action

In a situation where the SSD is responsible to make an in person contact, it is important to understand the implication of the final district decision. Ordinarily, it is the customer's responsibility to apply for an emergency energy benefit. However, if the district confirms that a serious impairment or a neglect or hazardous situation exists in the referred household, the district is then responsible to coordinate the household's timely application and to issue an emergency energy benefit if the household meets all other eligibility requirements. The utility company is responsible to maintain service without threat of termination for as long as the Serious Impairment or Hazardous Situation exists or until the close of the

cold weather period (April 15) whichever occurs sooner, as defined by HEFPA. The utility must maintain service even if the SSD is unable to issue a payment for the household.

If, on the other hand, the district establishes that a serious impairment or hazardous situation does not exist, the district is only responsible to send an appropriate letter, as described in section IV.B.(4) above to each referred household. The referred household is then responsible to apply for an emergency energy benefit. Further, the utility company will not be responsible to maintain uninterrupted service until the end of the cold weather period (April 15).

6. Time Period(s):

District shall insure the implementation of the Elderly, Blind or Disabled case procedures on a year round basis. However, referrals of the Suspected Serious Impairment and Neglect or Hazardous cases are only appropriate from November 1 through April 15.

7. Claiming Situations

The costs associated with the district liaison to the utility company as well the costs involved to have district staff make on-site visits to households referred by the utility company are to be claimed as administrative costs of the income maintenance/eligibility function on the Schedule D-1 Allocation for Claiming of E/IM Expenditures (DSS-2347A).

V. ADDITIONAL INFORMATION

In accordance with HEFPA, the PSC has established a toll-free Consumer Hotline which residential customers may call regarding initiation, termination or reconnection of service. The PSC Consumer Hotline (1-800-342-3355) is available on any business day between 7:30 a.m. and 7:30 p.m.

VI. EFFECTIVE DATE

Effective upon release.

Oscar R. Best, Jr.
Deputy Commissioner
Division of Economic Security

Home Energy Fair Practices Act (HEFPA)
Social Services District Client Contact Letter
D R A F T

(DATE)

(CUSTOMER NAME)
(STREET ADDRESS)
(CITY/STATE/ZIP CODE)

Dear Mr./Mrs./Ms. (NAME):

We have been advised by the (UTILITY CO. NAME) that your (UTILITY TYPE) services will be shut off on or after (DATE). This utility service may be needed to help you heat your home. The service termination may be hazardous to the health and safety of both you and your family.

It may be possible to give you emergency assistance to pay all or some part of your bill and maintain your service. If you would like help to apply for emergency assistance, please call (AREA CODE) (TELEPHONE NUMBER) between _____ a.m. and _____ p.m. from Monday to Friday each week. A worker will explain to you where you can apply for help and what information you will need to complete an application.

If you are sick, disabled or homebound, please call (AREA CODE & TELEPHONE NUMBER) between _____ a.m. and _____ p.m. from Monday to Friday each week. A worker will review your situation and, if appropriate, arrange to make a visit to your home to help you complete an application for emergency assistance.

It is important to understand that this letter does not guarantee that you will receive emergency assistance. Also, the termination notice from the utility company does not guarantee that you will receive emergency assistance. You must complete an application for emergency assistance at our office, provide all necessary documentation and be found eligible for assistance.

If you have any questions, please call (AREA CODE & TELEPHONE NUMBER).

Sincerely,

IM Director

Home Energy Fair Practices Act (HEFPA)
Social Services District Client Contact Letter (Dormant Account)
D R A F T

(DATE)

(CUSTOMER NAME)
(STREET ADDRESS)
(CITY/STATE/ZIP CODE)

Dear Mr./Mrs./Ms. (NAME):

We have been advised by the (UTILITY COMPANY NAME) that your (UTILITY TYPE) service was shut-off on or after (DATE). This utility service may be needed to help you heat your home. The service termination may have been hazardous to the health and safety of both you and your family.

It may be possible to give you emergency assistance to pay all or some part of your bill and maintain your service. If you live at the same address and would like help to apply for emergency assistance, please call (AREA CODE & TELEPHONE NUMBER) between _____ a.m. and _____ p.m. from Monday to Friday each week. A worker will explain to you where you can apply for help and what information you will need to complete an application.

If you are sick, disabled or homebound, please call (AREA CODE & TELEPHONE NUMBER) between _____ a.m. and _____ p.m. from Monday to Friday each week. A worker will review your situation and, if appropriate, arrange to make a visit to your home to help you complete an application for emergency assistance.

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If you have any questions, please call (AREA CODE & TELEPHONE NUMBER).

Sincerely,

IM Director