

**HUMAN SERVICES**

**DIVISION OF AGING SERVICES**

**OFFICE OF STATE HEALTH INSURANCE FOR THE AGED & DISABLED AND  
FACILITIES MANAGEMENT**

**Lifeline Credit Program/Tenants Lifeline Assistance Program Manual**

**Proposed Readoption with Amendments: N.J.A.C. 10:167D**

**Proposed Repeal and New Rule: N.J.A.C. 10:167D-4 Appendix**

Authorized By: Elizabeth Connolly, Acting Commissioner, Department of Human Services.

Authority: N.J.S.A. 48:2-29.15 et seq., 48:2-29.30 et seq., 52:14C-1 et seq., and 52:14D-1 et seq.; and P.L. 2012, c. 17.

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

Proposal Number: PRN 2017-087.

Submit written comments by August 4, 2017, electronically to [DoAS.Legal@dhs.state.nj.us](mailto:DoAS.Legal@dhs.state.nj.us) or

by regular mail to:

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The agency proposal follows:

**Summary**

The Department of Human Services (Department) proposes to readopt with amendments N.J.A.C. 10:167D, the rules governing the Lifeline Credit Program/Tenants Lifeline Assistance

Program Manual (Program). The rules were readopted effective May 14, 2010, and, in accordance with N.J.S.A. 52:14B-5.1, N.J.A.C. 10:167D was scheduled to expire on May 14, 2017. Pursuant to N.J.S.A. 52:14B-5.1.c(2), the filing of this notice of proposal with the Office of Administrative Law prior to the expiration date extends the expiration date of this chapter by 180 days to November 10, 2017. The Department has contacted stakeholders, has reviewed N.J.A.C. 10:167D, and has determined that, with the proposed amendments, repeal, and new rule, the rules are necessary, adequate, reasonable, efficient, understandable, and responsive to the purposes for which they were originally promulgated. However, the Department has identified some areas of the rules for which amendments are either necessary or appropriate for clarity and consistency. The Department, therefore, proposes to readopt the chapter and proposes certain amendments and a new rule and repeal.

The rules for the Program initially were effective November 21, 1983, as N.J.A.C. 10:69B. See 15 N.J.R. 1227(a); 1944(b). The Program rules were readopted, effective November 21, 1988, and readopted again, effective October 21, 1993. See 20 N.J.R. 2440(a); 3153(a) and 25 N.J.R. 3701(a); 5167(b), respectively. The Program was transferred to the Department of Health and Senior Services (now known as the Department of Health) pursuant to Reorganization Plan No. 001-1996 and the rules were recodified from N.J.A.C. 10:69B to 8:83A, effective November 3, 1997. See 29 N.J.R. 4679(a). The Program rules were readopted with amendments, effective September 11, 1998. See 30 N.J.R. 1560(a); 3645(b). The Program rules then expired on September 11, 2003.

Effective October 4, 2004, the Program rules were adopted as new rules. See 36 N.J.R. 2410(a); 4457(a). Pursuant to Executive Order No. 1 (2010), the chapter expiration date was extended from April 2, 2010, until the completion of the review of administrative regulations and

rules by the Red Tape Review Group, and until such time as the extended regulation or rule was readopted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. The Program rules were readopted, effective May 14, 2010. See 42 N.J.R. 3880(a); 1198(a).

Effective July 1, 2012, the functions, powers, and duties of the Division of Aging and Community Services in the Department of Health and Senior Services (now known as the Department of Health) were transferred to the newly established Division of Aging Services in the Department. See P.L. 2012, c. 17. Consequently, the authority for the Program was transferred to the Department and, as a result thereof, the rules for the Program were recodified from N.J.A.C. 8:83A to 10:167D administratively, effective June 16, 2014. See 46 N.J.R. 1643(a).

The Department proposes numerous amendments to clarify the name of the Program, references to the Program, its benefits, and the Department by using consistent terms for each. The Department also proposes amendments to modify the style of the content by deleting parentheses and rewording any language contained therein.

N.J.A.C. 10:167D contains five subchapters. The following is a summary of those subchapters, the proposed amendments, and the repeal and new rule:

Subchapter 1 contains general provisions regarding the purpose, authority, definitions, and the assistance payment.

The Department proposes to amend the heading of the subchapter and N.J.A.C. 10:167D-1.1(b) to correctly reflect the name of the Tenants' Lifeline Assistance Program.

The Department proposes to delete N.J.A.C. 10:167D-1.2(a) and (b). The Department also proposes to amend recodified N.J.A.C. 10:167D-1.2(a) to make all references to the Program clear and consistent throughout the chapter.

N.J.A.C. 10:167D-1.3 contains the definitions of terms used throughout the chapter. The Department proposes to delete the terms “anticipated income” and “transferable credit” because these terms are not used in the chapter. The Department proposes to delete the term “lifeline” and to add the term “Lifeline Programs” to make all references to the Program clear and consistent throughout the chapter.

The Department proposes to amend the terms “authorized agent,” “beneficiary,” “calendar year,” “electric utility,” and “previous year” to make all references to the Program clear and consistent throughout the chapter.

The Department proposes to amend the term “applicant” to include an individual who reapplies for the Program and to make all references to the Program clear and consistent throughout the chapter.

The Department proposes to amend the term “gas utility” to correctly reflect the regulatory authority and jurisdiction of the Board of Public Utilities over public utilities providing residential gas service and to make all references to the Program clear and consistent throughout the chapter.

The Department proposes to amend the term “resident” to refer to a person rather than “one” and to make all references to the Program clear and consistent throughout the chapter.

The Department proposes to amend the term “special needs trust” to delete parentheses.

The Department proposes to amend the term “Tenants Assistance payment” to correctly reflect the name of the Tenants’ Lifeline Assistance Program.

The Department proposes to amend the term “unused Lifeline Credit” to “unused Lifeline balance” in order to clarify references to this benefit and to amend the term to make all references to the Program clear and consistent throughout the chapter.

The Department proposes to amend N.J.A.C. 10:167D-1.4 to make all references to the Tenants Assistance payment benefit clear and consistent throughout the section and to make all references to the Program and the Department clear and consistent throughout the chapter.

Subchapter 2 addresses the administrative organization.

The Department proposes to amend N.J.A.C. 10:167D-2.1 to correctly reflect the name of the Tenants' Lifeline Assistance Program.

The Department proposes to amend N.J.A.C. 10:167D-2.2 and 2.3 to make all references to the Program and Department clear and consistent throughout the chapter.

The Department proposes to amend N.J.A.C. 10:167D-2.4 to change the term "unused credit/balances" by deleting "credit/" in order to be consistent with the amendment to the term "unused Lifeline Credit balance" in N.J.A.C. 10:167D-1.3.

The Department proposes to amend N.J.A.C. 10:167D-2.5 to make all references to the Program clear and consistent throughout the chapter, to reflect the current name of the New Jersey Division of Family Development and to clarify that information may be released to the Department of Health.

Subchapter 3 sets forth the application process for the Program.

The Department proposes to amend N.J.A.C. 10:167D-3.1 and 3.2 to make all references to the Program clear and consistent throughout the chapter.

The Department proposes to amend N.J.A.C. 10:167D-3.3 to include the renewal application process of reapplying for the Program at the request of the Department, to make all references to the Program and the Department clear and consistent throughout the chapter, to delete the specific references to microfilming and electronic storage, so that the Department may

implement new methods for the maintenance of records as technology changes over time, and to include an affirmative duty of the applicant to provide the Department with any documents requested. The Department proposes to amend N.J.A.C. 10:167D-3.3(c)1i to correctly reflect the name of the Tenants' Lifeline Assistance Program. The Department also proposes to amend N.J.A.C. 10:167D-3.3 to make changes to the style of the content.

Subchapter 4 contains the eligibility requirements for the Program.

The Department proposes to amend N.J.A.C. 10:167D-4.1 to clarify references to the Pharmaceutical Assistance to the Aged and Disabled program, to delete a cross-reference to N.J.A.C. 10:167D-4.8(b), and to make all references to the Program clear and consistent throughout the chapter. The Department proposes to amend N.J.A.C. 10:167D-4.1(b) to correctly reflect the name of the Tenants' Lifeline Assistance Program.

The Department proposes to amend N.J.A.C. 10:167D-4.2 to make all references to the Program and the Department clear and consistent throughout the chapter, to correctly reflect the name of Volunteers in Service to America, to reflect the current name of the Office of State Health Insurance for the Aged & Disabled, and to modify language in order to delete parentheses. The Department proposes to amend subsections (a) and (b) to clarify the age for eligibility and the age for eligibility if receiving Social Security Title II disability benefits and to delete N.J.A.C. 10:167D-4.2(c)2vii because the program to compensate Japanese Americans interned during World War II has concluded. The Department also proposes to delete the reference to 1996 as the start date for increasing income eligibility limits by the Social Security cost-of-living adjustment as the income eligibility limit is adjusted annually on January 1 based upon the Social Security cost-of-living adjustment.

The Department proposes to amend N.J.A.C. 10:167D-4.3 to clarify that any resident of New Jersey is eligible for the Program, to make all references to the Program and the Department clear and consistent throughout the chapter and to modify the language in order to delete parentheses.

The Department proposes to amend N.J.A.C. 10:167D-4.4 to make all references to the Program clear and consistent throughout the chapter, to clarify the current proofs of age that are acceptable, and to modify the language in order to delete parentheses.

The Department proposes to amend N.J.A.C. 10:167D-4.5 to clarify that citizenship is not a prerequisite for the Program, to make all references to the Program clear and consistent throughout the chapter.

The Department proposes to amend N.J.A.C. 10:167D-4.6 to clarify the age for eligibility if receiving Social Security Title II disability benefits, to make all references to the Program clear and consistent throughout the chapter and to reflect the Social Security Administration documents that are acceptable proofs of a disability determination.

The Department proposes to amend N.J.A.C. 10:167D-4.7 to modify the style of the content.

The Department proposes to amend N.J.A.C. 10:167D-4.8 to make all references to the Program clear and consistent throughout the chapter, to accurately reflect the current application process for certain applicants, to delete specific identifiers for application forms, and to modify the style of the content.

The Department proposes to amend N.J.A.C. 10:167D-4.9 to make all references to the Program clear and consistent throughout the chapter.

The Department proposes to amend N.J.A.C. 10:167D-4.10 to make all references to the Program clear and consistent throughout the chapter, to delete specific identifiers for application forms, and to delete parentheses.

The Department proposes to amend N.J.A.C. 10:167D-4.11 to modify the style of the content.

The Department proposes to amend N.J.A.C. 10:167D-4.12 to delete parentheses.

The Department proposes to amend N.J.A.C. 10:167D-4.13 to make all references to the Program and the Department clear and consistent throughout the chapter and to delete the admonition regarding the use of the appeal process.

The Department proposes to repeal N.J.A.C. 10:167D-4 Appendix, Tenant Verification form, and replace it with the Tenant Verification form currently utilized by the Department. The current form does not require the applicant's Social Security number.

Subchapter 5 addresses the recovery of incorrectly paid benefits.

The Department proposes to amend N.J.A.C. 10:167D-5.1 to make all references to the Program clear and consistent throughout the chapter.

As the Department is providing 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 rules proposed for readoption with amendments and a repeal and new rule have had, and will continue to have, a positive social impact on beneficiaries who receive benefits from the Program. The Program helps lower-income elderly and people with disabilities who may have difficulty paying their gas and electric bills. They receive assistance in the amount of \$225.00 annually, which provides financial relief from the high cost of essential household utilities. In



Fiscal Year 2015-2016, there were 276,757 persons receiving benefits from the Program and 17 utility companies participating in the Program. The readoption of the rules with amendments will continue to help residents maintain the heat and lights in their homes.

### **Economic Impact**

The rules have had and will continue to have a positive economic impact on beneficiaries. Beneficiaries receive \$225.00 annually toward the cost of gas and electric. Eligible persons who own their homes receive this benefit as a credit on their utility bills. Eligible tenants who have utilities included in their rent receive this benefit in the form of a check.

The Program also has a positive economic impact on utility companies. There are 17 utility companies that participate in the Program. The following companies are listed on the application form: Public Service Electric & Gas; Elizabethtown Gas; New Jersey Natural Gas; South Jersey Gas; Atlantic City Electric; Jersey Central Power & Light; Orange/Rockland Electric; Sussex Rural Electric; Butler Electric; Lavallette Electric Department; Madison Water and Light Department; Milltown Electric Department; Park Ridge Electric Department; Pemberton Electric Department; Seaside Heights Electric Department; South River Board of Public Works; and Vineland Municipal Utilities. These companies benefit because the Program provides assistance to their customers who have limited means to pay their utility bills.

### **Federal Standards Statement**

The rules proposed for readoption with amendments and a repeal and new rule are not subject to Federal standards or requirements. The Program is fully State-funded and operates under the direction of the Department.

The Health Insurance Portability and Accountability Act of 1996, Pub.L. 104-191, and the regulations promulgated thereunder by the United States Secretary of Health and Human Services at 45 CFR Parts 160 and 164, known as the "Standards for Privacy of Individually Identifiable Health Information" (collectively referred to as "HIPAA"), apply to health information created or maintained by health care providers, health plans, and health care clearinghouses. The Department has determined that it is a covered entity within the meaning of HIPAA and, therefore, must comply with HIPAA. Lifeline applicants often apply for the Program through their application for the Pharmaceutical Assistance to the Aged and Disabled (PAAD) program. To the extent that protected health information is involved, the rules proposed for readoption with amendments and a repeal and new rule would meet, but not exceed, the requirements of HIPAA.

Except as described above, there are no Federal standards applicable to the subject matter of the rules proposed for readoption with amendments and a repeal and new rule. Since any Federal requirements applicable to the rules are met, but not exceeded, no Federal standards analysis is required.

### **Jobs Impact**

The Department expects that there will be no impact on jobs as a result of the rules proposed for readoption with amendments and a repeal and new rule. There will be no impact on the beneficiaries, who are either elderly or people with disabilities, or the utility companies.

### **Agriculture Industry Impact**

The rules proposed for readoption with amendments and a repeal and new rule are not expected to have an impact on the agriculture industry.

### **Regulatory Flexibility Analysis**

There are 17 companies participating in the Program, some of which may be considered small businesses as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules proposed for readoption with amendments and a repeal and new rule have imposed, and would continue to impose, reporting, recordkeeping, and/or compliance requirements on the participating companies, regardless of size. The companies would not need to retain any additional services to comply with the rules proposed for readoption with amendments and a repeal and new rule.

Pursuant to N.J.A.C. 10:167D-1.4 and 2.4, participating companies are required and would continue to be required to inform their customers about the Program; use, transfer, and/or return the balance of Program credits applied to the accounts of eligible customers; and recover any Program credits incorrectly paid to customers. Companies, pursuant to N.J.A.C. 10:167D-5.1(f), would continue to be responsible to notify the Department of any Program credits improperly applied to customer accounts.

### **Housing Affordability Impact Analysis**

The rules proposed for readoption with amendments and a repeal and new rule would have an insignificant, if any, impact on the affordability of housing or the average costs associated with housing in New Jersey due to the annual \$225.00 assistance with utilities.

### **Smart Growth Development Impact Analysis**

The rules proposed for readoption with amendments and a repeal and new rule would have an insignificant, if any, impact on smart growth or housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey due to the annual \$225.00 assistance with utilities.

**Full text** of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 10:167D.

**Full text** of the rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 10:167D-4 Appendix.

**Full text** of the proposed amendments and new rule follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

## SUBCHAPTER 1. LIFELINE CREDIT PROGRAM/TENANTS' LIFELINE ASSISTANCE PROGRAM

### 10:167D-1.1 Purpose and intent

(a) (No change.)

(b) The intent of the Tenants' Lifeline Assistance Program is to afford assistance to residents who, by virtue of their level of income and age or disability status, would be eligible for the Lifeline Credit Program; but because [of their living accommodations (]their utility costs are included as part of the rental[)], they do not receive an individual utility bill, and are, therefore, ineligible for the Lifeline Credit Program, but who are nonetheless deserving of financial relief from burdensome energy costs.

### 10:167D-1.2 Legal authority

[(a) The New Jersey Lifeline Credit Program was established by P.L. 1979, Chapter 197, as amended and supplemented, N.J.S.A. 48:2-29.15 et seq. (see also Reorganization Plan No. 001-1996).

(b) The New Jersey Tenants Lifeline Assistance Program was established by P.L. 1981, Chapter 210, as it amends and supplements P.L. 1979, Chapter 197, N.J.S.A. 48:2-29.31 et seq. (see also Reorganization Plan No. 001-1996).]

[(c)] The New Jersey State budget for fiscal year 2004 transferred the responsibility for funding **the Lifeline Credit Program and the Tenants' Lifeline Assistance Programs'** benefits to the Board of Public Utilities (BPU). Pursuant to a Memorandum of Understanding [(MOU)] between the Department and BPU, the Department shall continue to administer the Lifeline [programs] **Programs**.

#### 10:167D-1.3 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

...

["Anticipated income" means the amount of income the applicant can reasonably be expected to receive during the calendar year.]

"Applicant" means an individual who applies **or reapplies** for the Lifeline [benefit] **Credit Program or the Tenants' Lifeline Assistance Program** either personally or through an authorized agent.

"Authorized agent" means a person who initiates the [Lifeline] application for a person who is incompetent or incapable of filing the [Lifeline] application on his or her behalf **in order to receive benefits from the Lifeline Credit Program or the Tenants' Lifeline Assistance Program**.

"Beneficiary" means an individual who has been found eligible for **the Lifeline [benefit] Credit Program or Tenants' Lifeline Assistance Program.**

"Calendar year" means a year beginning January 1 and ending on December 31. It is the base period utilized to determine annual income and [Lifeline] eligibility.

...

"Electric utility" means every New Jersey public utility which provides residential electric service, as defined in this section, and is regulated by and subject to the jurisdiction of the [Board of Public Utilities] **BPU**. Additionally, any municipality or other governmental entity providing residential electric service, as defined in this section, within the State of New Jersey, shall be deemed an electric utility for the limited purposes of [this program] **the Lifeline Programs.**

"Gas utility" means every New Jersey public utility which provides residential gas service, as defined in this section, and is regulated by and subject to the jurisdiction of the [Board of Regulatory Commissioners] **BPU**. Additionally, any municipality or other governmental entity providing residential gas service, as defined in this section, within the State of New Jersey, shall be deemed a gas utility for the limited purposes of [this program] **the Lifeline Programs.**

...

["Lifeline" means the Lifeline Credit Program and/or the Tenants Lifeline Assistance Program.]

...

**"Lifeline Programs" means the Lifeline Credit Program and/or Tenants' Lifeline Assistance Program.**

"Previous year" means the calendar year preceding the year in which the person is applying or reapplying for **the Lifeline Programs**. For example, 2002 is the "previous year" when referring to an application which is dated between January 1, 2003, through December 31, 2003.

1. If a person who is required to submit a Federal, State [and/]or City Income Tax return applies for **the Lifeline Programs** at the beginning of a calendar year but has not yet filed an income tax return for the previous year, the year preceding the previous year is considered to be the last or "previous year" when completing the Lifeline **Programs** application.

"Resident" means [one] **a person** legally domiciled within the State of New Jersey for a period of 30 days immediately preceding the date of application for inclusion in the [Program] **Lifeline Programs**. Mere seasonal or temporary residence within the State, of whatever duration, does not constitute domicile.

...

"Special needs trust" means a trust containing the assets of a disabled individual that is established for the sole benefit of the individual by a parent, grandparent, legal guardian or court prior to the time the individual reaches the age of 65. [(]See N.J.A.C. 10:167D-4.2(d) for provisions.[)]

...

"Tenants Assistance payment" means a benefit in the form of a check in an amount established by law which is issued to an individual who has been determined to be eligible for the Tenants' Lifeline Assistance Program.

...

["Transferable credit" occurs when a customer moves from one principal residence to another principal residence within the service territory of the same electric and/or gas utility.]

"Unused [Lifeline Credit] **balance**" means any portion of the Lifeline Credit not applied against an eligible [Lifeline] beneficiary's utility bill upon the termination of residential electric and/or gas service.

...

#### 10:167D-1.4 Lifeline Credit[/] **and** Tenants [Lifeline] Assistance payment

(a) (No change.)

(b) The Tenants [Lifeline] Assistance payment shall consist of a single amount established by law, which on a yearly basis will be issued in the form of a check. Checks will be sent to eligible tenants who indirectly pay for utilities as part of their rental. Only one eligible tenant per household will be allowed to receive such assistance.

1. When an eligible [Tenants Lifeline Assistance] beneficiary moves prior to the issuance of payment, the beneficiary must notify the [Lifeline Programs] **Department**. The beneficiary must request a change of address and submit proof of New Jersey residence and the Tenants [Lifeline] Assistance [Program check] **payment** will be forwarded to the beneficiary.

2. When an eligible [Tenants Lifeline Assistance Program (TLAP)] beneficiary moves out of the State of New Jersey, dies or otherwise is determined ineligible, no benefit shall be granted.

3. When an eligible [TLAP] beneficiary has received [TLAP] **Tenants Assistance** payments and subsequently becomes ineligible, payments will be discontinued as soon as the [Lifeline Programs are] **Department becomes** aware of the beneficiary's ineligibility.



(c) A Special Utility Supplement has been established to assist Supplemental Security Income (SSI) beneficiaries who are not eligible for **the** Lifeline [Credit or Tenants Lifeline Assistance] **Programs**. This yearly supplement amount, established by law in lieu of Lifeline Credit or Tenants [Lifeline] Assistance **payment**, will be added to each monthly SSI check in amount equal to 1 /12 of the yearly supplement.

1. When an SSI beneficiary is no longer eligible for the SSI Program, any remaining balance of the Special Utility Supplement may be dispersed accordingly.

i. If the terminated SSI beneficiary is eligible for Lifeline Credit or Tenants [Lifeline] Assistance **payment**, the remaining balance of the Special Utility Supplement shall be issued to the individual in the form of a check.

ii. If the terminated SSI beneficiary is not eligible for Lifeline Credit or Tenants [Lifeline] Assistance **payment**, the remaining balance of the Special Utility Supplement shall be returned to the Treasurer, State of New Jersey.

## SUBCHAPTER 2. ADMINISTRATIVE ORGANIZATION

### 10:167D-2.1 Department of Human Services

The Department of Human Services is the administrative unit of the State government designated to administer the Lifeline Programs. As provided in the “Lifeline Credit Program” and “Tenants’ Lifeline Assistance Program” acts, this Department is authorized to promulgate policies, rules, regulations and procedures as may be deemed necessary to implement the provisions of these acts.

### 10:167D-2.2 Lifeline Programs

Lifeline Programs are administered by the Department, which has the direct responsibility for processing applications and determining eligibility for either program, reimbursing utility companies for credits issued, recovering benefits improperly issued and [for] authorizing the payment of [Lifeline] benefits.

#### 10:167D-2.3 Agency controls

(a) (No change.)

(b) The Department has the responsibility for reviewing a sample of beneficiaries' case records to assure that eligibility determinations are consistent with State law and regulations. A quality control review of sample cases selected on a random basis shall include:

1. An analysis of the beneficiary's case record, including the application, maintained by the [Lifeline Programs] **Department**;

2.-3. (No change.)

(c) (No change.)

#### 10:167D-2.4 Responsibilities of the utility companies

(a)-(c) (No change.)

(d) Each electric and gas utility shall return to the Treasurer, State of New Jersey, any unused [credit/] balances.

(e)-(f) (No change.)

#### 10:167D-2.5 Confidentiality and disclosure of information

(a) All personally identifiable information regarding applicants or beneficiaries obtained or maintained under [these programs] **the Lifeline Programs** shall be confidential and shall not be released without the written consent of the applicant or beneficiary or their authorized agent.

(b) Disclosure of information without the consent of the applicant, beneficiary or their authorized agent shall be limited to purposes directly connected with the administration of the [program] **Lifeline Programs** pursuant to State law and regulations.

(c) The prohibition of (a) above against unauthorized disclosure shall not be construed to prevent:

1. (No change.)

2. The release to the Attorney General or other legal representative of this State of information or files relating to the claim of any applicant, beneficiary or their authorized agent challenging the [program's] **Lifeline Programs'** statute, regulations or a determination made pursuant thereto, or against whom an action or proceeding for the recovery of incorrectly or illegally applied or issued benefits has been instituted;

3. The release of information to electric utilities, gas utilities, the Pharmaceutical Assistance to the Aged and Disabled Program, the Social Security Administration and the New Jersey Division of [Public Welfare for the Special Utility Supplement] **Family Development;**

4.-5. (No change.)

6. The release of information to the Department **of Health** and participating licensed veterinarians for the purpose of verifying eligibility for benefits under the Animal Population Control Program; or

7. (No change.)

## SUBCHAPTER 3. APPLICATION PROCESS

### 10:167D-3.1 General provisions

The application process includes all activity relating to a request for an [Lifeline] eligibility determination. [It] **The application process** begins with the receipt by the Department of an eligibility application and continues in effect until there is an official disposition of the [eligibility] request by the Department.

### 10:167D-3.2 Authorized agent

(a) In those instances where the applicant is incompetent or incapable of filing [a Lifeline] **an** eligibility application on his or her own behalf, the Department shall recognize any of the following persons listed in order of priority, as an authorized agent for the purpose of initiating such application:

1.-5. (No change.)

### 10:167D-3.3 Responsibilities in the application **and renewal** process

(a) Pursuant to statutory authority, N.J.S.A. 48:2-29.31, the Department shall establish procedures on the application process consistent with law and supervise[s] the operation with the policy and procedures so established.

(b) The Department, through a Memorandum of Understanding with BPU, has responsibility in the application process to:

1. Explain the purposes and eligibility requirements of the [program] **Lifeline Programs** and indicate the applicant's rights and responsibilities under [its] **their** provisions;

2.-3. (No change.)

4. Notify the utility [company(ies)] **companies** of eligible applicants and the amount of credit to be applied to their accounts; and

5. [Microfilm or electronically store] **Maintain** eligibility applications and supporting documents [and retain microfilm or electronic records] for audit purposes.

(c) The applicant has the responsibility to:

1. Complete the [Lifeline] eligibility application form truthfully, legibly, and accurately.

i. All application questions must be fully answered, including providing a monthly rental amount or the amount of the lease if the applicant is applying for **the** Tenants' Lifeline Assistance **Program**;

ii. All necessary documentation of eligibility must be submitted to the [Lifeline Program] **Department**;

iii. Read the certification and authorization and sign [(or mark)] the application; and

iv. Obtain the signature [(or mark)] of the spouse, [(if married)], and the signature of the preparer, [(if applicable)], on the application;

2. [Assist] **Upon request by the Department, provide documentation or assist** the Department in obtaining documentation that supports his or her statements[, when required].

i. Upon request by the [Program] **Department**, the applicant shall supply a copy of the [rental/lease] **rental or lease** agreement, the Tenant Verification form, which is incorporated herein by reference as N.J.A.C. 10:167D-4 Appendix, or a document that contains all the information and signatures required by the Tenant Verification form; [and]

3. Agree to a review by the Department. [Lifeline eligibility] **Eligibility** may be terminated and benefits recovered if the beneficiary refuses to cooperate with a quality control review[.]; **and**

**4. Upon request by the Department, reapply for the Lifeline Programs on the forms mailed by the Department in order to renew eligibility.**

(d)-(e) (No change.)

#### SUBCHAPTER 4. ELIGIBILITY

##### 10:167D-4.1 Eligibility requirements

(a) To be eligible for the Lifeline Credit Program, an individual shall be a resident and the residential utility customer each year or the spouse of a residential utility customer and satisfy one of the following criteria:

1. Be a Pharmaceutical Assistance to the Aged and Disabled (**PAAD**) **program** beneficiary or determined to be eligible for PAAD benefits; or

2. Meet the residency, income, and age or disability requirements of the PAAD [Program] **program** but apply for Lifeline Credit **Program** only. [(See N.J.A.C. 10:167D-4.8(b).)]

(b) When an individual is not a residential utility customer but is a tenant, as defined in N.J.A.C. 10:167D-1.3, who has the cost of utilities included in his or her monthly rental and the individual meets the eligibility requirements as outlined in (a)1 and 2 above, the individual is eligible to receive benefits from [The] **the** Tenants' Lifeline Assistance Program.

(c) To be eligible for the Lifeline [Credit Program and the Tenants Assistance Lifeline Assistance Program] **Programs**, an individual shall comply with the application requirements of N.J.A.C. 10:167D-3.

##### 10:167D-4.2 Income standards

(a) Any single permanent resident of New Jersey who is 65 years of age **or older** or who is [under 65 and over 18 years of age] **between 18 and 65** and is receiving Social Security Title II disability benefits must have an annual income of less than \$26,655 to be eligible for **the Lifeline Programs**.

(b) Any married permanent resident of New Jersey who is 65 years of age **or older** or who is [under 65 and over 18 years of age] **between 18 and 65** and is receiving Social Security Title II disability benefits, **and his or her spouse**, must have a combined [(applicant and spouse)] annual income of less than \$32,680 to be eligible for **the Lifeline Programs**.

1. An applicant and spouse shall be considered separated when each maintains a separate residence and the applicant does not have access to or receive support from the spouse's income.

i. Any support payment received by the applicant, for the sole benefit of the applicant, shall be considered as income for [Lifeline] eligibility purposes.

2. (No change.)

(c) All income, from whatever source derived, is considered when determining eligibility for **the Lifeline Programs**.

1. All income, taxable and nontaxable, is to be included. Examples of possible sources of income, [(**which shall be** gross amounts unless otherwise noted)], are as follows:

i.-xvi. (No change.)

xvii. Annuities, [(**whether** contributory, [and] noncontributory, qualified [and] **or** nonqualified)];

xviii. Retirement benefits including distribution from Individual Retirement Arrangements (IRAs), [(] **such as** Traditional, Simple, Roth, **or** Educational[)], and benefit payments from foreign countries;

xix. **Net** [Business] **business** income [(net)];

xx.-xxi. (No change.)

xxii. **Net** [Rental] **rental** income [(net] after expenses[)].

2. Sources of income which are excluded in considering eligibility for **the** Lifeline **Programs** are as follows:

i. Benefit amounts received under the [New Jersey State] Lifeline [Credit Program/Tenants Lifeline Assistance Program] **Programs**;

ii.-iv. (No change.)

v. Stipends from the Volunteers [to] **in** Service [in] **to** America (VISTA), Foster Grandparents programs, Workforce 55+ program and programs under Title V of the Older Americans Act of 1965;

vi. (No change.)

[vii. Reparation payments to Japanese Americans by the Federal government pursuant to sections 105 and 106 of the Civil Liberties Act of 1988, P.L. 100-383 (50 U.S.C. App. 1989b-4 and 1989b-5);]

Recodify existing viii.-x. as **vii.-ix.** (No change in text.)

[xi.] **x.** Proceeds received by the beneficiary of a [Special Needs Trust] **special needs trust** [(see] **as described in** N.J.A.C. 10:167D-4.2(d) [for provisions)];



[xii.] **xi.** Rollovers from one tax deferred financial instrument, **such as** [(pension, annuity, IRA, insurance contract or other retirement benefits)], to another tax deferred financial instrument;

[xiii.] **xii.** (No change in text.)

[xiv.] **xiii.** An insurance policyholder's original contributions if [Demutualization] **demutualization** of the policy occurs [( and, in that case, only the earnings on the policy would be counted)].

(d) To be considered a special needs trust to be excluded as income for determining eligibility for **the Lifeline Programs**, the trust shall include the following provisions:

1.-9. (No change.)

10. The trust shall specifically state that the trustee shall be compensated only as provided by law [( in accordance with N.J.S.A. 3B:18-2 et seq.).] If the trust identifies a guardian, the trust shall specifically identify him or her by name. A guardian shall be compensated only as provided by law;

11. (No change.)

12. The State shall be given advance notice of any expenditure in excess of \$5,000, and of any amount which would substantially deplete the principal of the trust. Notice shall be given to the Office of [Support Services] **State Health Insurance for the Aged & Disabled**, Division of Aging Services, PO Box 715, Trenton, NJ 08625-0715, or any successor agency, 45 days prior to the expenditures; and

13. New Jersey rules and laws do not permit a trust to create a will for an incompetent or a minor. The money creating the trust, any additions and[/or] interest accumulated, cannot be left to other parties, but shall pass by intestacy. The trust shall not create other trusts within it.

(e) Upon request by the Department, the applicant must be able to document the amounts reported on the eligibility application, and will be required to submit photocopies of his or her Federal, State and[/or] city income tax return and other acceptable evidence.

(f) [Lifeline Credit/Tenants Lifeline Assistance eligibility] **Eligibility for the Lifeline Programs** is conferred based upon annual income for the current calendar year, which is estimated at the time of application. Previous year income information is used as a gauge and supplements estimates of current income to determine current eligibility. However, if previous income exceeds the standard, but current year income is expected to fall within legal limits, an initial applicant may estimate current year income for the purpose of establishing [Lifeline] eligibility.

(g) Since [Lifeline] eligibility is based upon actual annual income, if the actual annual income for the current calendar year exceeds the [Lifeline] income standard, the person will become ineligible for the entire calendar year.

(h) The [Lifeline Program] **Department** shall take necessary action to recover the full amount of payments made on behalf of beneficiaries during an ineligible period, when appropriate.

(i) [Lifeline beneficiaries] **Beneficiaries** are required to notify the [Lifeline Program] **Department** immediately if their current year income exceeds the established income standard.

(j) [Since January 1, 1996 and annually thereafter, the] **The** income eligibility limits shall increase **annually on January 1** by the amount of the maximum Social Security benefit cost-of-living adjustment for that year for single and married persons, respectively, in accordance with 42 U.S.C. § 415(i)(2)(D), incorporated herein by reference. The Commissioner shall publish the new income limits annually in the New Jersey Register.

#### 10:167D-4.3 Residency requirement

(a) [The term resident shall be interpreted to mean a person having his customary place of abode in New Jersey. (See N.J.A.C. 10:167D-1.3, Definitions.)]. **Only residents of this State shall be eligible for the Lifeline Programs.**

(b) The applicant must be able to substantiate residence upon request by the Department, and is required to submit copies of two documents showing evidence of current residence at the time of application. The following are examples of proof of residence:

1. Motor vehicle records, **such as a** [(for example,) valid driver's license[]];
  2. (No change.)
  3. Public utility records and receipts, **such as an** [(for example,) electric bill[]];
  4. (No change.)
  5. Records of professional people or businesses, **such as** [(for example,) doctors[,] **and** department stores[, etc.]];
  - 6.-8. (No change.)
- (c) (No change.)

(d) In determining the continued New Jersey residence of an absentee, the issue is whether the individual intends to return to New Jersey or remain indefinitely in the other jurisdiction. If a [Lifetime] beneficiary leaves New Jersey with the intent to establish a principal residence elsewhere, the beneficiary becomes ineligible for benefits and must immediately notify the [Lifeline Program] **Department** of the change of address.

#### 10:167D-4.4 Age

(a) The [Lifeline] applicant who is 65 years of age or older must be able to document his or her age upon request of the Department. The applicant must submit a copy of one of the following acceptable proofs of age:

1.-3. (No change.)

4. Social Security [form number 2458 (] **records verifying age, which** can be obtained from the local Social Security office[)]; **or**

5. Railroad Retirement letter, **which** [(]can be obtained from the Railroad Retirement Board[)]; or].

[6. Third Party Query Form (can be obtained from the local Social Security office).]

(b) If the applicant cannot supply a copy of one of the proofs of age listed in (a)1 through 6 above, the applicant must submit copies of any two of the following acceptable proofs of age:

1.-5. (No change.)

6. Church record of Baptism **for** [(]age five or after[)];

7.-18. (No change.)

#### 10:167D-4.5 Citizenship

[The Lifeline applicant is not] **A person shall not be** required to be a citizen of the United States in order to be eligible for the Lifeline [Credit Program/Tenants Lifeline Assistance Program] **Programs**.

#### 10:167D-4.6 Disability

(a) The [Lifeline] applicant who is **between 18 and** [under] 65 years of age [and over age 18] and **is** receiving Social Security Title II disability benefits must be able to document his

or her Social Security disability determination upon request of the Department. The applicant must submit a copy of one of the following documents:

1. Social Security Award Certification [(SSA-L30)] issued by the Social Security Administration within the last six months of application; or
2. [Report of Confidential Social Security Beneficiary Information (SSA-2458).] **A document issued by the Social Security Administration, which establishes Medicare eligibility and is dated within six months of the date of the application.**

#### 10:167D-4.7 Utility information

- (a) (No change.)
- (b) When an applicant is a tenant and the utility costs are included in the monthly rental, the applicant shall submit the name and address of his or her landlord, the amount paid in rent per month or the amount of the lease and, upon request, a copy of the rental[/] **or** lease agreement or the verification of tenancy required by N.J.A.C. 10:167D-3.3(c)2i.

#### 10:167D-4.8 [Lifeline eligibility] **Eligibility** applications

- (a) The Department shall mail a Lifeline **Programs** application [(LL-1)] to all Medical Assistance to the Aged, Medicaid Only beneficiaries and New Jersey Care Special Medicaid Program beneficiaries, except for those residing in nursing facilities, [that] **who** are eligible each year. There shall be only one application for those beneficiaries who apply for both PAAD and **the Lifeline Programs** [(Form AP-2)].
- (b) When an individual meets the residency, income, age, or disability requirements of the PAAD program and is not an SSI beneficiary and wishes to apply for **the Lifeline Programs**

[Only] **only**, the individual shall complete the required application and return it to the [Lifeline Program] **Department**.

(c) [For] **When necessary, the Department shall mail preprinted forms** to those [Lifeline] beneficiaries who met the qualifications for **the Lifeline Programs** [Only] **only** in the previous year and received benefits[, a preprinted form will be sent to them. This form obviates the need for an applicant to again prove residency and/or age].

(d) When the [Lifeline Program] **Department** receives the completed application form, [either the LL-1 or the combined application form,] the [Lifeline Program] **Department** will determine whether the beneficiary is eligible for the Lifeline [Credit or Tenants Lifeline Assistance] **Programs** and authorize credit[/] **or** payment accordingly.

#### 10:167D-4.9 Social Security Account Number

(a) Each applicant [for the Lifeline benefit] must include his or her Social Security Account Number (SSAN) on the application form. The SSAN, a unique and verifiable number, is utilized to differentiate between persons with the same name. Married persons must also indicate the SSAN of their spouse.

(b) In the event that the applicant does not have a SSAN, a unique identifying number will be assigned by the Department. This number will be used to uniquely identify the [Lifeline] beneficiary.

#### 10:167D-4.10 Certification

The applicant [for Lifeline benefits] must certify that all answers to the questions and items on the application form [either the LL-1 or the combined application form,] are true and accurate to the best of his or her knowledge. This certification shall be dated, signed [( )or

marked[]) by the applicant and spouse, [(if married)], and the preparer of the form, [(if other than the applicant)], before the application can be processed.

#### 10:167D-4.11 Authorization

(a) By signing[/] **or** marking the certification and authorization statement on the application form, the applicant authorizes:

1.-2. (No change.)

#### 10:167D-4.12 Eligibility period

A Lifeline Credit shall be applied to the account(s) of a residential utility customer and remain on the account until it is used or the account is terminated. [(See N.J.A.C. 10:167D-1.4.)]

#### 10:167D-4.13 Appeal process

(a) When the [Lifeline Program] **Department** determines that an applicant is ineligible for benefits, the applicant has the right to appeal the decision by submitting a written request for a fair hearing to the Lifeline Credit Program, Department of Human Services, PO Box 722, Trenton, NJ 08625-0722, within 30 calendar days from the date of mailing of the notice of ineligibility. The document must clearly state the valid basis for such a request.

(b) The [Lifeline Program] **Department** will forward the hearing request to the Office of Administrative Law, which will schedule the hearing and notify all parties of the date, time and location, pursuant to the New Jersey Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

(c) The petitioner will have the burden of demonstrating that the [Lifeline Program's] **Department's** determination deviates from the requirements and standards of the regulations and statute.

(d) When the petitioner requests a fair hearing, they shall clearly indicate the existence of a disputed question of fact or law arising from the requirements and standards of the rules and statutes of the Lifeline [Program] **Programs**. If the petitioner fails to establish a contested case, the [Lifeline Program] **Department** shall deny the hearing request. [Hearings are not intended to be informational or to provide a forum for the expression of public sentiment on Lifeline Program actions or policies.]

(**Agency Note:** The text of proposed new N.J.A.C. 10:167D-4 Appendix follows without boldface symbolizing proposed new text; those portions in boldface are intended to be so permanently.)

## **Appendix**



New Jersey Department of Human Services  
 Pharmaceutical Assistance to the Aged and Disabled (PAAD), Lifeline and Special Benefits Programs  
 PO Box 715  
 Trenton, NJ 08625-0715

**TENANT VERIFICATION**

Please print the landlord and the tenant(s) names and monthly amount of rent clearly.  
 This form must be signed by both the Landlord and the Tenant(s).

Landlord's Name: \_\_\_\_\_

Landlord's Address: \_\_\_\_\_

Tenant's (Applicant's) Name: \_\_\_\_\_

Co-Tenant's Name (if applicable): \_\_\_\_\_

Property Address: \_\_\_\_\_

The above-named Tenant(s) pay(s) rent to the above-named Landlord. The monthly amount of rent is \$\_\_\_\_\_.

Please verify the utility arrangement (check as appropriate):

The cost of electric

<input type="checkbox"/> is <i>included</i> in the rent payment.	<input type="checkbox"/> is <i>NOT included</i> in the rent payment; tenant responsible for own electric bill.	<input type="checkbox"/> is <i>NOT included</i> in the rent payment; tenant pays a separate charge for electric.
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The cost of natural gas

<input type="checkbox"/> is <i>included</i> in the rent payment OR natural gas is not used.	<input type="checkbox"/> is <i>NOT included</i> in the rent payment; tenant responsible for own natural gas bill.	<input type="checkbox"/> is <i>NOT included</i> in the rent payment; tenant pays a separate charge for natural gas.
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Is rent subsidized? (subsidized housing, section 8, etc)  YES  NO

By signing this form, I certify that the information stated above is true and correct to the best of my knowledge.

Landlord's signature: \_\_\_\_\_ Date: \_\_\_\_\_

Tenant's (Applicant's) signature: \_\_\_\_\_ Date: \_\_\_\_\_

Co-tenant's signature: \_\_\_\_\_ Date: \_\_\_\_\_

Applicant's Social Security number: \_\_\_\_\_

## SUBCHAPTER 5. RECOVERIES

### 10:167D-5.1 Benefits incorrectly paid

(a) The Department shall take all necessary action to recover the Tenants [Lifeline] Assistance payments incorrectly or illegally made or the Lifeline Credit incorrectly or illegally applied, on behalf of an electric and/or gas utility customer, from the residential utility customer and any party or parties whose action or inaction resulted in the incorrect payment or from their respective estates, as the case may be. The action shall include, but is not limited to:

1. (No change.)

2. Reducing subsequent [Lifeline] benefits **from the Lifeline Programs** to which the beneficiary may be entitled;

3. Reducing New Jersey State income tax refunds to which the beneficiary may be entitled; and[/or]

4. (No change.)

(b)-(e) (No change.)

(f) For the purposes of carrying out the provisions of this section, no public utility, as defined herein, shall be held liable for any Lifeline Credit either improperly or illegally obtained by a [Lifeline] beneficiary[,] once that [Lifeline] beneficiary has been identified by the appropriate State instrumentality and made known to the utility as an eligible [Lifeline] beneficiary.

1. (No change).

(g) (No change.)