



2020 Energy Forum for Advocates

Legal Advocacy

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DIRECTOR OF COMMUNICATIONS
AND COMMUNITY PROJECTS

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We make every effort to keep legal educational materials up to date. However, the situation is rapidly evolving. The information contained in this material is not legal advice. Legal advice depends upon the specific facts of each situation. These materials cannot replace the advice of competent legal counsel.

About Nassau Suffolk Law Services



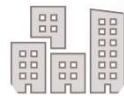
Over 6,000 legal cases each year



Direct representation, phone consultations,



Brief service or referral



Offices in Hempstead, Islandia, Riverhead



Case handling staff includes attorneys, paralegals and social workers



Partnerships with Community Agencies

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Legal Support Center for Advocates

Provide Technical Support to Advocates

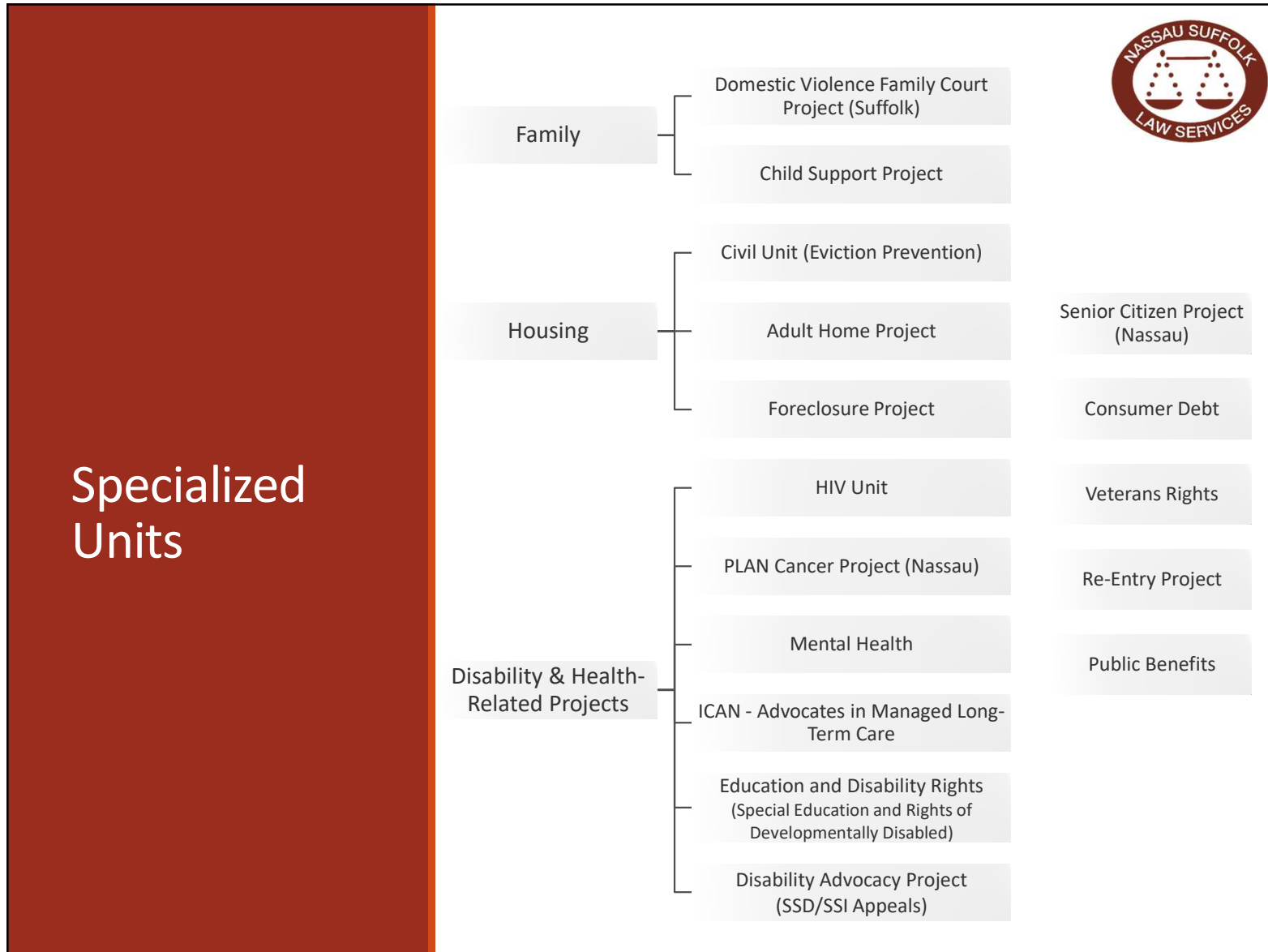
“Advocates” include legislative staff, social workers, outreach workers, medical personnel, and guidance counselors

Host Community Trainings

Publish Newsletters

**Advocates call (631) 232-2400 for assistance:
Vivian - x3309 Cathy - x3324**

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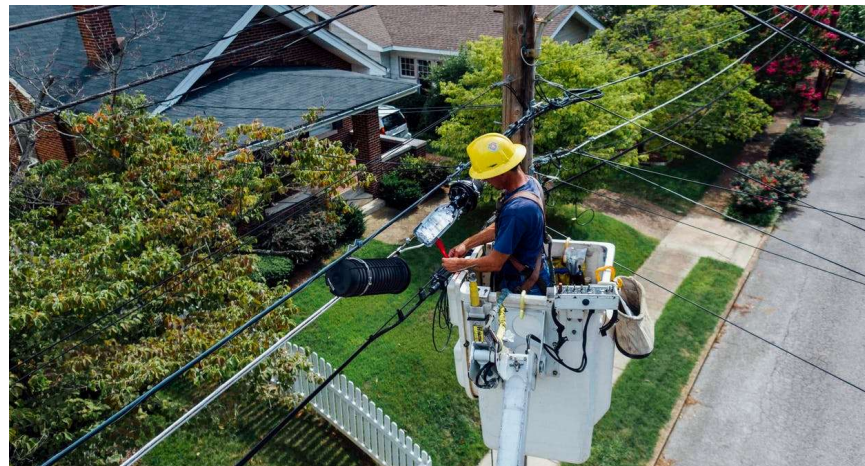


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COVID-19 and Utility Services

ALL CUSTOMERS

- **NO UTILITY SHUTOFFS FOR NONPAYMENT UNTIL STATE OF EMERGENCY LIFTED** (Laws of 2020, Chapter 108 and 120)
- Anyone who is shutoff during state of emergency must be reconnected within 48 hours
- Shutoffs allowed to protect health and safety
- Arrears will accrue and must be paid at the end of the state of emergency



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COVID-19 and Utility Services

CUSTOMERS WHO EXPERIENCED CHANGE IN FINANCIAL CIRCUMSTANCES DUE TO COVID:

- No shutoffs for arrears or default on repayment plan for **180 days** after end of state of emergency
- Payment plans cannot require a down payment;
- No late fees;
- Arrears will be due and must be paid at the end of the 180-day period.



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No Heat?
Ask questions.
The problem is not always an issue with PSEG/National Grid.

Who is utility customer?
The account may be held by the tenant, a co-tenant, or the landlord.

Does the rent include heat/utilities?

Does the landlord have a role in the utility interruption?

Is it a shared meter situation?

Does burner need repair?

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Utility Shutoff: As a Landlord- Tenant Problem



If landlord is responsible for the loss of heat and will not restore:

- FILE A POLICE REPORT. Disconnecting utilities to force a tenant out is a crime.
- Send letter to landlord claiming a serious “warranty of habitability” issue.
- A lack of heat can justify a “rent withhold” if properly documented.
- Notify PSEG of problem with landlord and attempt to negotiate with PSEG to pay ongoing bill ONLY
- If it is a shared meter on landlord’s account, tenants can work to arrange payment for ongoing bill
- Heat complaints: Call County Department of Health 631 852-5900 (Suffolk) or 516 227-9715 (Nassau)

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Deferred Payment Agreement

- If the utility bill is in the client's name, negotiate with PSEG/National Grid first before going to DSS or a charity.
- Before terminating service, PSEG must "negotiate in good faith" for a "fair and equitable" Deferred Payment Agreement (DPA) based on customer's financial circumstances (16 NYCRR 11.10)
- DPA should be in writing



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Negotiate a Viable DPA!



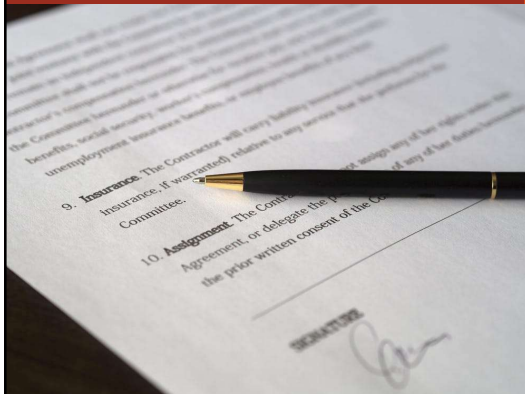
- Deferred Payment Agreement (DPA) terms must consider financial circumstances.
- Ask to complete the Determination of Customer Resources form to be considered for \$0 down-payment and \$10 per month DPA. ([LIPA](#) [*Tariff Leaf No. 146 V.G.4- September 2020](#)).
- ***NO DOWN-PAYMENTS FOR ANYONE WHO DEMONSTRATES CHANGE IN FINANCIAL CIRCUMSTANCES DUE TO COVID.***
- Under DPA, customer must continue to make their regular monthly payments IN ADDITION to DPA payments. What are the ongoing monthly payments? Are they affordable?

**To negotiate a written affordable payment plan:
PSEG Customer Assistance Center: 1-800-490-0025
or
National Grid: 1-800-930-5003**

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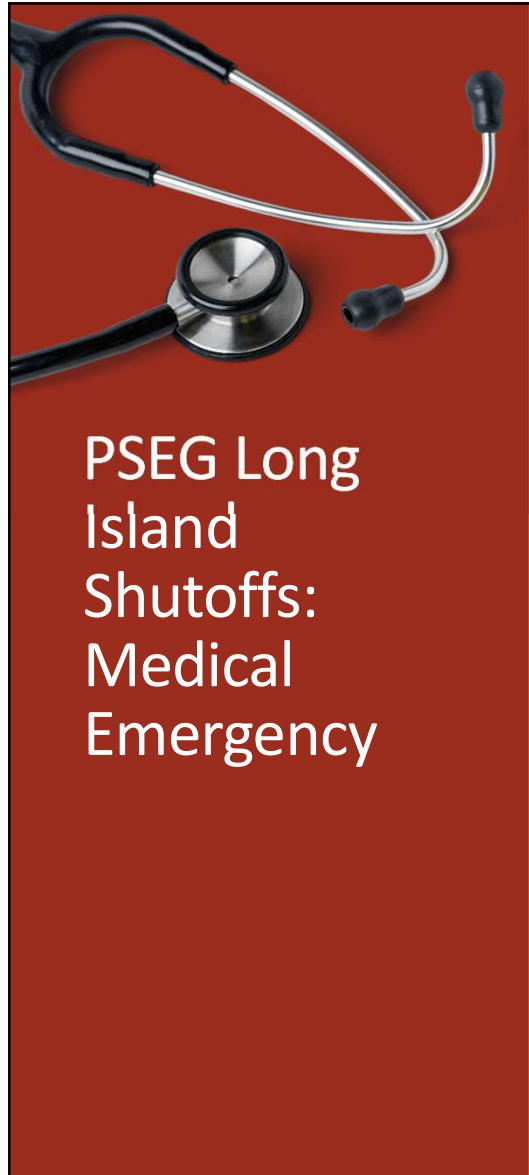


If Customer Fails to Pay DPA



- Agreement can be amended anytime due to change in circumstances
- If customer reneges on a written DPA, shutoff can proceed (unless customer asked for renegotiated DPA due to change in circumstances OR claims prior DPA was unreasonable)
- **FOR THOSE WHO EXPERIENCED CHANGE IN FINANCIAL CIRCUMSTANCES DUE TO COVID**
 - **NO DISCONNECT FOR 180 DAYS AFTER STATE OF EMERGENCY IF THEY DEFAULT ON DPA.**
 - **COMMUNICATE HARDSHIP TO UTILITIES EVEN IF THEY DO NOT HAVE FUNDS TO PAY ONGOING CHARGES OR START A DPA.**
- Termination regulations LIPA TARIFF Leaf No. 144-159.

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PSEG Long Island Shutoffs: Medical Emergency

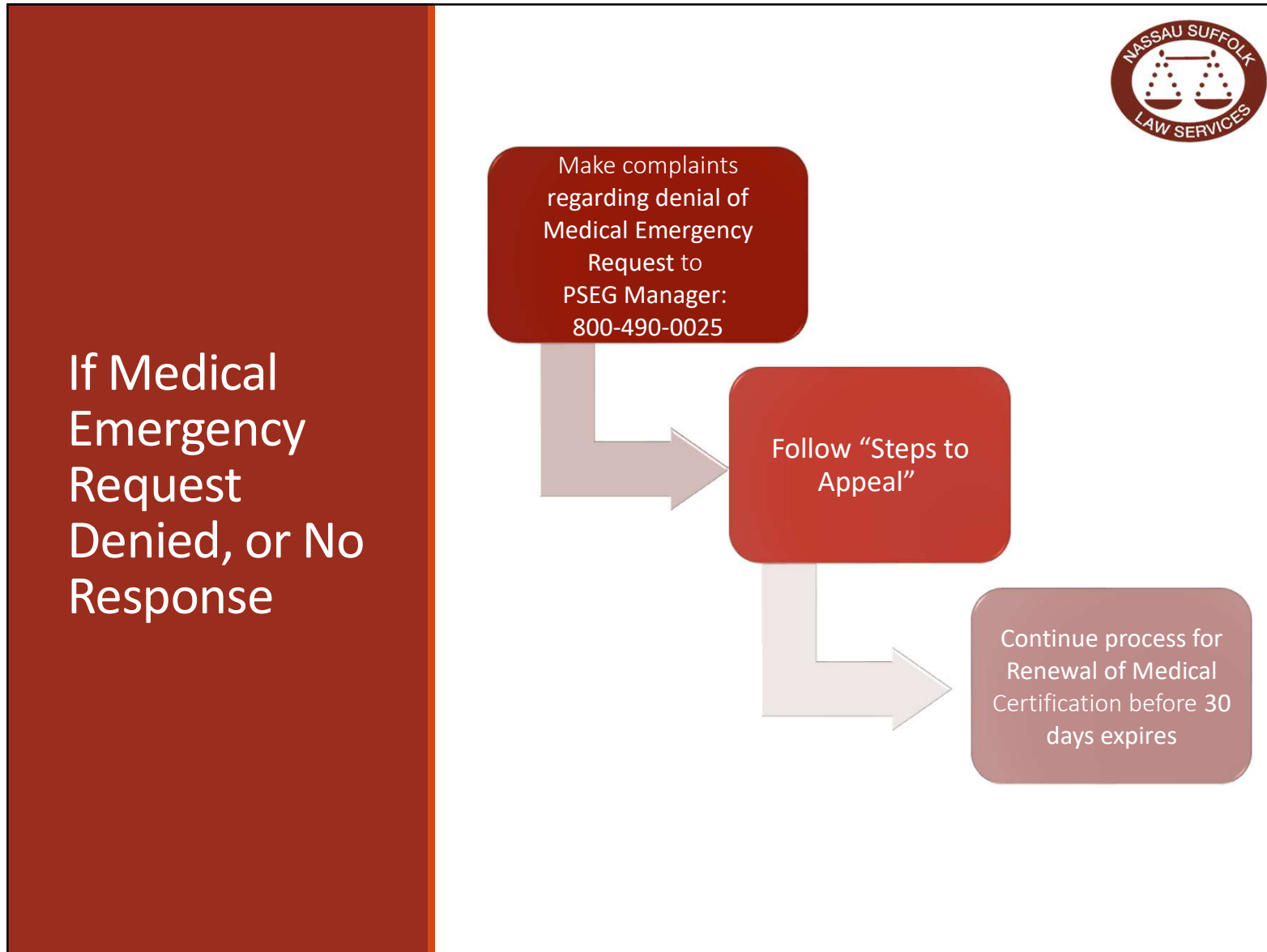


Necessary elements of medical certification letter:

1. On doctor's stationery, with address and doctor's registration number
2. Signed by doctor, physician's assistant or nurse practitioner
3. Complete with name and address of patient and nature of illness or medical condition
4. Include statement that the lack of utility service would "aggravate the condition"
5. Effective for 30 days. See LIPA Tariff Leaflet No. 125 V.B.13.
6. Good idea to submit Determination of Customer Resources form at the same time

Can also be done by phone or fax (631-844-3635) with 5 day written follow up by doctor.

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Renewal of Medical Certification



1. PSEG Long Island should renew Medical Certification if
 - Renewal Certification by Doctor or Board of Health official:
 - States expected length of medical emergency
 - Explains the nature of the emergency
 - Explains why lack of utility service would aggravate condition AND
 - Customer demonstrates inability to pay.
2. With proper medical certification utility service should continue. Customer is still liable for payment and should make reasonable efforts to pay.
3. PSEG must assist with workout payments to avoid large arrears after medical emergency is over.
 - SEE [LIPA TARIFF V.B.13 Leaf No.125-127](#)

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Appeals/complaints can involve:

- shutoff procedure,
- unfair DPAs,
- refusal to accept medical certification,
- right to open account, etc.
- CHANGE IN FINANCIAL CIRCUMSTANCES DUE TO COVID**

Proposed change in service will not take place while appeal is pending

Other Utility Appeals/ Complaints

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Steps to Appeal Leaf # 159-160



Start with the Utility's "Manager".
Call 1-800-490-0025. "Prompt" decision may be oral or in writing.

If unresolved, call NYS DEPARTMENT OF PUBLIC SERVICE (DPS) 1-800 342-3377 or 3355 or www.dps.ny.gov to file a complaint.

After the DPS makes initial decision, customer may request appeal for an informal hearing or review.

DPS hearing office will issue written decision on the informal appeal

If DPS informal decision is unfavorable, appeal within 15 days: Office of the Secretary, NYS Dept. Public Service, 3 Empire State Plaza, Albany NY 12223-1350 (Leaf No. 163)

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Reconnection



- a. PSEG Long Island is obligated to reconnect within 24 hours after conditions of payment have been met or within 48 hours if shutoff was violation COVID moratorium
- b. If PSEG is notified that serious threat to health and safety exists, should reconnect.
- c. “Reasonable doubts... will be decided in favor of reconnection.” - **Tariff Leaf No. 153**
- d. Reconnection charge will not apply to low income customers receiving financial assistance from: SSI, HEAP, Public Assistance: welfare, Medicaid or food stamps



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Utility Guarantees by DSS

DSS must first consider HEAP eligibility if available.

- Advantages: Applicant does NOT have to be the named tenant for regular HEAP.
- HEAP assistance is not repayable.

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Utility Guarantees by DSS

**Supplemental Security Income (SSI) recipients:
Emergency Assistance to Adults (EAA) to pay utility arrears**

- Not for SSD/ SSDI only recipients!
- EAA Advantages: SSI recipient can keep assets up to \$2,000.
- Not required to spend down in order to be eligible.
- Once secured, 6 mo. guarantee kicks in for ongoing utility bill
- No repayment required
- MUST re-apply if the hardship continues at the end of the 6-month period

**Cash public assistance (PA)
Recipients:
Restricted utilities**

- Home energy portions of DSS grant go directly to PSEG
- Advantage of PA Guarantee: Avoids shutoff and future utility payments guaranteed for 6 months
- Utility service must be restored regardless of arrears.

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Other DSS Emergency Grants



- An applicant for DSS emergency programs must be the “tenant” and “customer of record” to receive assistance.
- Repayment agreements required
- No Repayment agreement for HEAP, or EAA and PA recipients
- Repayment agreements are 2-yr plans
- If reneged on prior DSS repayment agreement, not eligible for another grant until current on repayment.
- People under a Public Assistance sanction are still eligible for emergency utility assistance.
- Learn more: <https://otda.ny.gov/programs/temporary-assistance/TAEM.pdf>

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Avoiding arrears during COVID-19



- CONTINUE TO APPLY FOR EMERGENCY ASSISTANCE and REQUEST DPAs
- We have heard reports that DSS is not providing emergency assistance due to moratorium on disconnects and evictions.
- OTDA has directed that emergency assistance applications should be evaluated on a case-by-case basis notwithstanding moratoria.
- DSS practice is unclear, but people with utility arrears should continue to apply for emergency assistance.
- Recipients of SSI guarantee MUST continue to provide bills to DSS and recertify.
- May need to request a fair hearing if they are denied.
- Call NSLS if denied for emergency assistance because of moratorium or if unclear about whether to pursue DPA or emergency assistance given moratorium.

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More Resources



Nassau Suffolk Law Services

Nassau: 631-232-2400

Suffolk: 516-292-8100

www.nslawservices.org

The Public Utility Law Project

("PULP")

585-270-1097

www.utilityproject.org

PSEG Long Island

Utility regulations contained in
LIPA Tariff

<https://www.lipower.org/about-us/tariff/>

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Thank you for your attention.



If you have any questions,
please email me at
vtorm@nsls.legal or call at
631-232-2400.

Thank you
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