

HUMAN SERVICES

DIVISION OF FAMILY DEVELOPMENT

New Jersey Supplemental Nutrition Assistance Program (NJ SNAP)

SNAP Nondiscrimination Policy and Complaints, SNAP Trafficking and Claims, Shelter and Utility Deductions, Separate Household Status for Disabled Individuals, SNAP Income Exclusions, and Methodology for Determining Standard Utility Allowances

Proposed Amendments: N.J.A.C. 10:87-1.11, 1.12, 2.2, 5.9, 5.10, 11.20, 11.21, and 12.1

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

Authority: N.J.S.A. 30:1-12.

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

Proposal Number: PRN 2016-017.

Submit comments by July 1, 2016, to:

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The agency proposal follows:

Summary

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.

The proposed amendments incorporate changes to the New Jersey Supplemental Nutrition Assistance Program (NJ SNAP) rules to include Federal changes that have been made within the program, State changes that exclude legally obligated child support payments from consideration in the gross income of a household, reinstatement of shelter/utility expenses, and simplified language to identify the methodology used to calculate the amount of the utility deductions.

The proposed amendments at N.J.A.C. 10:87-1.11 and 1.12 update the nondiscrimination policy and the United States Department of Agriculture (USDA) contact information for submission of discrimination complaints. The updated information reflects changes to the nondiscrimination policy and complaint submission location issued by a USDA policy memorandum in 2013.

Proposed new N.J.A.C. 10:87-2.2(a)2i provides that any disabled person who is too disabled to purchase his or her own food, but who has arranged to have his or her food purchased and prepared separately from those with whom he or she lives, may claim separate household status. This is necessary as a result of policy guidance provided by the Food and Nutrition Service (FNS) in Administrative Notice 20-2006. FNS oversees implementation of the Supplemental Nutrition Assistance Program (SNAP) and provides guidance on program policy to state SNAP agencies through policy memos.

Proposed new N.J.A.C. 10:87-5.9(a)20 and the deletion of N.J.A.C. 10:87-5.10(a)4v and 5 serve to change the way legally obligated child support paid by a household member is

considered when determining financial eligibility for NJ SNAP. Current rules consider this type of income as an income deduction to be applied after a household has already passed a gross income test. As required by the New Jersey SNAP Employment and Training Provider Demonstration Project Act (P.L. 2013, c. 45), legally obligated child support paid by a household member will now be considered as an income exclusion, which will result in this income being eliminated from consideration prior to the household's gross income test.

Proposed new N.J.A.C. 10:87-5.10(a)5 and the amendments to paragraph (a)6 serve to reinstate the homeless shelter deduction; eliminate the \$1.00 Home Energy Assistance (HEA) benefit qualifications for the Heating or Cooling Standard Utility Allowance (HCSUA) due to additional requirements passed by Section 4006 of the Federal Agricultural Reform Act of 2014 for Low Income Home Energy Assistance Program (LIHEAP) recipients to qualify for the standard utility allowance (by deleting subparagraph (a)6iv); and to establish three different utility allowances (under proposed new subparagraph (a)6iv): the HCSUA, the Limited Utility Allowance (LUA), and the Uniform Telephone Allowance (UTA).

Existing N.J.A.C. 10:87-11.20(a)1 concerning the definition of trafficking is proposed for deletion because it is being expanded and incorporated into new subsection (y).

Proposed new N.J.A.C. 10:87-11.20(g)1 requires county welfare agencies (CWAs) to establish claims for an overpayment when an overissuance or trafficking incident occurs, even in situations where the claim cannot be established within the timeframes specified in N.J.A.C. 10:87-11.20(g). To ensure timely processing of claims, Federal regulations require that a claim be processed by the last day of the quarter following the quarter when the incident was discovered; however, a claim is not to be dismissed solely because it is not processed timely.

This is included to ensure compliance with an amendment to 7 CFR 273.18(d)(3), which was published as final rule in the Federal Register on December 15, 2010.

The proposed amendment to N.J.A.C. 10:87-11.20(i)4xv requires demand letters to contain a due date or timeframe to either repay or make arrangements to repay the claim (rather than the percentage of the reduction and the effective date). This is included to ensure compliance with 7 CFR 273.18(e)(iv).

The proposed amendment at N.J.A.C. 10:87-11.20(k)3 defines delinquency. Specifically, the amendment states that the date of delinquency for a claim covered at (k)1ii is the due date of the missed installment payment “unless the claim was delinquent prior to entering into a repayment agreement, in which case the due date will be the due date on the initial notification/demand letter.” This is included to ensure compliance with an amendment at 7 CFR 273.18(d)(5)(iii).

Proposed new N.J.A.C. 10:87-11.20(v)5 provides situations in which the retention rates related to NJ SNAP claims do not apply. This is included to ensure compliance with an amendment to 7 CFR 273.18(k)(2).

Proposed new N.J.A.C. 10:87-11.20(y) expands the definition of trafficking to concur with the Federal definition at 7 CFR 271.2. The definition of trafficking has been expanded to also include the following: stealing SNAP benefits; purchasing a product with SNAP benefits with the intent of obtaining cash by discarding the product and returning the container for the deposit amount; and selling food purchased with SNAP benefits.

The proposed amendment at N.J.A.C. 10:87-11.21(a)1iv reduces the number of days a SNAP claim must be delinquent before the claim can be submitted to the Treasury Offset Program (TOP). The Digital Accountability and Transparency Act of 2014 (P.L. 113-101)

reduced the timeframe for submission to TOP from 180 days down to 120 days. SNAP claims will now be accepted for collections through the offset program after 120 days of delinquency.

The proposed amendments to N.J.A.C. 10:87-12.1(a) and (b) serve to eliminate obsolete Code of Federal Regulations citations and references to annual changes to deduction amounts being published in the Federal Register. The Food and Nutrition Service eliminated the requirement to publish annual updates in the Federal Register back in 2000.

N.J.A.C. 10:87-12.1(c) is proposed for deletion and replacement to reinstate the Limited Utility Allowance, and the Uniform Telephone Allowance (as discussed above under proposed new N.J.A.C. 10:87-5.10(a)6iv); and to identify the methodology used by the Division of Family Development to calculate the amount of the various utility allowances annually. Utility allowances are deducted from the gross income of the household to establish a net income amount, which is used to determine eligibility and the household benefit amount.

Social Impact

Proposed new N.J.A.C. 10:87-2.2(a)2i, will have a positive social impact by allowing an individual who is severely disabled and cannot purchase or prepare his or her own food, but has another person in the household purchase and prepare food separately on his or her behalf, to be declared a separate household, thereby maintaining a level of independence.

Proposed new N.J.A.C. 10:87-5.9(a)20 and the deletion of N.J.A.C. 10:87-5.10(a)4v and 5, which change the consideration of legally obligated child support paid by a household member, will have a positive social impact by allowing a credit for child support paid by a household, which will permit more families who are complying with payment of child support to qualify for NJ SNAP benefits.

The proposed amendment at N.J.A.C. 10:87-11.21(a)1iv, which reduces the number of days a SNAP claim must be delinquent before submission for TOP collection, is not expected to have a social impact.

The proposed amendments at N.J.A.C. 10:87-12.1(c), which reinstate two utility allowances and update a third and identify the methodology used annually to calculate the utility allowance deduction amount, will ensure that the standard utility deductions are available to households in accordance with 7 CFR 273.9(d)(6). The proposed amendments are not anticipated to have a social impact.

Economic Impact

Proposed new N.J.A.C. 10:87-2.2(a)2i, which allows an individual who is severely disabled and cannot purchase or prepare his or her own food, to have another person in the household purchase and prepare food separately on his or her behalf, will have a positive economic impact as that individual may now claim separate household status and his or her income would not affect the entire household's eligibility, which may result in a higher benefit amount for the disabled individual.

Proposed new N.J.A.C. 10:87-5.9(a)20 and the deletion of N.J.A.C. 10:87-5.10(a)4v and 5, which change the consideration of legally obligated child support paid by a household member, will have a positive economic impact. The family receiving the child support benefits from the receipt of the child support, and the child support obligor is allowed to reduce the gross income for the household, which will permit more families who are complying with payment of child support to qualify for NJ SNAP benefits.

The proposed amendments at N.J.A.C. 10:87-5.10(a), which serve to reinstate the homeless shelter allowance to eliminate the granting of the HCSUA utility standard based on the issuance of a nominal LIHEAP benefit and to reinstate the various income deductions for shelter expenses, are not expected to have an economic impact.

The proposed amendment at N.J.A.C. 10:87-11.21(a)1iv, which reduces the number of days a SNAP claim must be delinquent before submission for TOP collection, is not expected to have an economic impact because the claim amount will remain the same.

The proposed amendments at N.J.A.C. 10:87-12.1(c), which reinstate two utility allowances and update a third and clarify the methodology used annually to calculate the utility allowance deduction amount, is not anticipated to have an economic impact.

Federal Standards Statement

The proposed amendments contain standards that do not exceed those contained in 7 CFR Part 273; therefore, a Federal standards analysis is not required.

Jobs Impact

The proposed amendments will not result in the generation or loss of jobs.

Agriculture Industry Impact

The proposed amendments will have no impact on the agriculture industry.

Regulatory Flexibility Statement

The proposed amendments have been reviewed with regard to the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendments impose no reporting, recordkeeping, or compliance requirements on small businesses and thus, a regulatory flexibility analysis is not required. The proposed amendments are designed to provide nutritional assistance to needy individuals and families (not small businesses).

Housing Affordability Impact Analysis

The proposed amendments will have an insignificant impact on the affordability of housing in New Jersey and there is an extreme unlikelihood that the rules would evoke a change in the average costs associated with housing because the proposed amendments that govern the NJ SNAP are designed to provide nutritional assistance to needy individuals and families.

Smart Growth Development Impact Analysis

The proposed amendments will have an insignificant impact on smart growth and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey because the proposed amendments are designed to provide nutritional assistance to needy individuals and families.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. GENERAL PROVISIONS

10:87-1.11 Policy of nondiscrimination

CWAs shall not discriminate against any applicant or participant in any aspect of program administration, including, but not limited to, the certification of households, the issuance of benefits, the conduct of fair hearings, or any other program service, for reasons of age, race, color, sex, disability, religious creed, national origin, or political belief, **and as otherwise prohibited by State and Federal law.**

10:87-1.12 Complaint procedures

(a)-(e) (No change.)

(f) To file a complaint of discrimination directly to USDA, [write to: USDA Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, S.W., Washington, D.C. 20250-0003 or call (202) 750-9410 or (202) 720-5964 (voice and TDD).] **complete the USDA Program Discrimination Complaint Form, found online at https://www.ascr.usda.gov/sites/default/files/Complain_combined_6_8_12_508_0.pdf, or at any USDA office, or call (866) 632-9992 to request the form, or write a letter containing all the information requested in the form. Send completed complaint forms or letters to: U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or e-mail at program.intake@usda.gov. Individuals who are deaf, hard of hearing, or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339 or (800) 845-6136 (Spanish). USDA is an equal opportunity provider and employer.**

SUBCHAPTER 2. THE APPLICATION PROCESS

10:87-2.2 Household defined

(a) A household may be composed of any of the following individuals or groups of individuals:

1. (No change.)

2. An individual living with others, but who customarily purchases food and prepares meals for home consumption separate and apart from [the] others[;].

i. Any person who is too disabled to purchase or prepare his or her own food, but who has arranged to have his or her food purchased and prepared separate and apart from others, may claim separate household status. Separate household status may be granted even if the person who shops for food or prepares meals for the disabled person is residing with the disabled person;

3.-5. (No change.)

(b)-(d) (No change.)

SUBCHAPTER 5. FINANCIAL ELIGIBILITY; INCOME

10:87-5.9 Identification of income exclusions

(a) Only the following shall be excluded from household income; no other income shall be excluded:

1.-17. (No change.)

18. The pro-rata share of income of an ineligible alien (see N.J.A.C. 10:87-7.7(c)); [and]

19. SNAP benefits from Puerto Rico, American Samoa, and the Commonwealth of the Northern Mariana Islands[.]; **and**

20. All legally obligated or court-ordered child support payments paid by a household member to, or on behalf of, a non-household member, including payments to a

third party on behalf of the non-household member and amounts paid toward arrearages. Alimony payments made to or for a non-household member shall not be excluded as income.

10:87-5.10 Income deductions

(a) Deductions from income will be allowed only for the following expenses of the household:

1.-3. (No change.)

4. Payments for the actual costs for the care of a child or other dependent when necessary for a household member to accept or continue employment, seek employment in compliance with the job-search criteria (or an equivalent effort by those not subject to job-search) or to attend training or pursue education that is preparatory to employment, shall be deducted. The amount of this deduction shall be the actual cost of such care.

i.-iii. (No change.)

iv. Amounts carried forward from past billing periods are not deductible, even if included with the most recent billing and actually paid by the household. In any event, a particular expense may only be deducted once[.];

[v. Legally obligated or court-ordered child support payments paid by a household member to or for a nonhousehold member, including payments to a third party on behalf of the nonhousehold member (vendor payments). The CWA shall allow a deduction for amounts paid toward arrearages. Alimony payments made to or for a nonhousehold member shall not be included in the child support deduction. The child support payment shall be budgeted in accordance with N.J.A.C. 10:87-6.13(d);

5. Legally obligated child support payments paid by a household member to or for a nonhousehold member, including payments to a third party on behalf of the nonhousehold member (vendor payments). The CWA shall allow a deduction for amounts paid toward arrearages. Alimony payments made to or for a nonhousehold member shall not be included in the child support deduction; and]

5. A household comprised entirely of homeless individuals, may be entitled to the Homeless Shelter Allowance (HSA).

i. To qualify for the HSA, the household shall incur a monthly out-of-pocket housing expense. A household that claims the HSA may not claim any other shelter or utility deduction.

ii. A homeless household may choose to claim actual shelter costs rather than the HSA, if the actual costs exceed the HSA. Homeless households wishing to claim actual shelter costs shall provide verification of expenses. In the absence of verifications of actual shelter costs, the household shall be provided the HSA; and

6. Monthly shelter costs in excess of 50 percent of the household's income after all other deductions in (a) 1, 2, 3, **and** 4 [and 5] above have been allowed, shall be deducted. However, in no event shall the shelter deduction exceed the amount in N.J.A.C. 10:87-12.1(b) unless the household contains a member who is elderly or disabled as defined at N.J.A.C. 10:87-2.34. These households shall receive an excess shelter deduction for the monthly costs that exceed 50 percent of the household's monthly income after all other applicable deductions. Households receiving Title II disability payments for dependents of a disabled individual are not eligible for the unlimited excess shelter deduction unless the disabled individual is a member of the household.

i.-iii. (No change.)

[iv. All NJ SNAP program households shall receive a \$1.00 monthly payment that shall be deposited into their EBT account, which shall entitle the NJ SNAP household to claim the HCSUA (see N.J.A.C. 10:87-12.1(e)).

(1) Households that claim the HCSUA utility allowance shall not be allowed any additional utility costs toward the shelter deduction.

(2) When a household shares a residence and the utility costs with other individuals, each household shall receive the full utility allowance HCSUA.

(3) A household, which has excluded energy assistance (for example, the HUD utility allowance) is entitled to the HCSUA utility allowance only if during one month of the certification period the household will incur utility expenses in excess of the excluded energy assistance. A HUD utility allowance, which is directly received and used by a public housing authority to reduce the household's rent (N.J.A.C. 10:87-5.9(a)3i) shall not be used to determine whether the household is qualified to receive an NJ SNAP HCSUA utility allowance.

(4) A household that has both an occupied home and an unoccupied home is only entitled to one HCSUA standard utility allowance.]

iv. Households that incur utility cost(s) separate and apart from their rent or mortgage must be provided the appropriate standard utility deduction in accordance with the following provisions. When a household shares a residence and utility expenses with other individuals, each household shall be provided with the full amount of the appropriate utility deduction. A household may only receive one of the following utility standards:

(1) As required by Section 4006 of the Federal Agricultural Reform Act of 2014, the Heating or Cooling Standard Utility Allowance (HCSUA) is provided to

households that incur heating or cooling expenses separate from the rent or mortgage, or to households that have received a Low Income Home Energy Assistance Program (LIHEAP) benefit of greater than \$20.00 in the past 12 months.

(A) As required by 7 CFR 273.9(d)(6)(iii), renters in both private and public rental housing who are billed by the landlord on the basis of individual usage or who are charged a flat rate separately from their rent, are to be provided the HCSUA.

(2) The Limited Utility Allowance (LUA) is provided to households that do not incur heating or cooling expenses separate from the rent or mortgage, but who do incur at least two utility expenses (such as telephone, water, sewerage, etc.).

(3) The Uniform Telephone Allowance (UTA) is provided to households that incur a telephone expense, but who do not incur any other utility expenses.

(b) (No change.)

SUBCHAPTER 11. INCORRECT ISSUANCE

10:87-11.20 Claims against households

(a) A recipient claim is an amount owed because of benefits that are over paid or benefits that are trafficked.

[1. Trafficking means the buying or selling of NJ SNAP benefits, EBT cards or other benefit instruments for cash or considerations other than eligible food; or the exchange of firearms, ammunition, explosives or controlled substances.]

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

(g) The CWA shall establish a claim before the last day of the quarter following the quarter in which the overpayment or trafficking incident was discovered. The CWA shall ensure that no less than 90 percent of all claim referrals are either established or disposed of according to this [time frame] **timeframe**.

1. The CWA shall establish a claim even if the claim cannot be established within the timeframe outlined in this subsection.

(h) (No change.)

(i) Rules on notification of a claim are as follows:

1.-3. (No change.)

4. The initial demand letter or notice of adverse action shall include language stating:

i.-xiv. (No change.)

xv. If allotment reduction is to be imposed, [the percentage to be used and the effective date] **a due date or timeframe to either repay, or make arrangements to repay, the claim in the event that the household stops receiving benefits.**

5.-6. (No change.)

(j) (No change.)

(k) Rules on determining delinquency are as follows:

1.-2. (No change.)

3. The date of delinquency for a claim covered at (k)1ii above is the due date of the missed installment payment, **unless the claim was delinquent prior to entering into a repayment agreement, in which case the due date will be the due date on the initial notification/demand letter.** The claim shall remain delinquent until payment is received in full,

allotment reduction is invoked, or if the CWA determines to either resume or renegotiate the payment schedule.

4.-5. (No change.)

(l)-(u) (No change.)

(v) Retention rates for CWA use are as provided in (v)1 through 4 below:

1.-3. (No change.)

4. If the CWA collects an AE claim, the retention rate is zero[.]; **and**

5. Retention rates do not apply to:

i. Any reduction in benefits when a household member is disqualified for an IPV;

ii. The value of court-ordered public services performed in lieu of the payment of a claim; or

iii. Payments made to a court that are not subsequently forwarded as payment of an established claim.

(w)-(x) (No change.)

(y) **Trafficking, as used in this section, shall mean:**

1. The buying, selling, stealing, or otherwise affecting an exchange of SNAP benefits issued and accessed via Families First cards, card numbers, and personal identification numbers (PINs), or by manual voucher and signature, for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone;

2. Pursuant to 7 CFR 271.2, the exchange of firearms, ammunition, explosives, or controlled substances, as defined in 21 U.S.C. § 802, for SNAP benefits;

3. Purchasing a product with SNAP benefits with the intent of obtaining cash by discarding the product and returning the container for the deposit amount, intentionally discarding the product, and intentionally returning the container for the deposit amount;

4. Purchasing a product with SNAP benefits with the intent of obtaining cash or consideration other than eligible food by reselling the product, and subsequently intentionally reselling the product purchased with SNAP benefits in exchange for cash or consideration other than eligible food;

5. Intentionally purchasing products originally purchased with SNAP benefits in exchange for cash or consideration other than eligible food; or

6. Attempting to buy, sell, steal, or otherwise affect an exchange of SNAP benefits issued and accessed via Electronic Benefit Transfer (EBT) cards, card numbers, and personal identification numbers (PINs), or by manual voucher and signatures, for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone.

10:87-11.21 Treasury Offset Program

(a) Rules on the Treasury Offset Program (TOP) are as follows:

1. Procedures for referring debts to TOP are as follows:

i.-iii. (No change.)

iv. The CWA shall certify that all claims referred to TOP are [180] **120** days delinquent and legally enforceable.

v. (No change.)

2.-6. (No change.)

SUBCHAPTER 12. TABLES

10:87-12.1 Income deduction[s] **standards**

(a) The Standard Deduction shall be that calculated by the United States Department of Agriculture [pursuant to 7 CFR 273.9(d)(7)], published annually in the Federal Register[,] pursuant to 7 CFR 273.9(d)(1), and effective October 1 of each year.

(b) The Shelter Deduction shall be that calculated by the United States Department of Agriculture [pursuant to 7 CFR 273.9(d)(8)], published annually in the Federal Register[,] pursuant to [7 CFR 273.9(d)(5)] **7 CFR 273.9(d)(6)**, and effective October 1 of each year.

[(c) The Heating and Cooling Standard Utility Allowance shall be recalculated annually by DFD effective October 1, in accordance with 7 CFR 273.9(d) and the "Texas" methodology described in USDA Notice No. 79-47, issued on May 25, 1979 and shall be the sum of the following:

1. The Major Heating and Cooling Standard Utility component shall be calculated by collecting data from NJ SNAP households in 1977 and 1978 to ascertain the heating utility expenses which those households incurred. The data shall be arranged to project what the 75th percentile of such monthly costs are, thus arriving at a winter Base Period amount of \$128.00 to represent November through April monthly utility costs, and a summer Base Period amount of \$44.00 to represent May through October monthly utility costs. Each base period amount shall be updated to reflect heating utility costs by using the U.S. Bureau of Labor Statistics' Consumer Price Indices-Urban "Fuels" item for the New York/Northern New Jersey and Philadelphia metropolitan regions. The six NJCPI-U statistics for July through December of the previous year shall be trended (straight line, least squares method) to project the average heating index amounts for November of the current year through April of the following year. The six NJCPI-U

statistics for January through June of the following year shall be trended (straight line, least squares method) to project the average heating index amounts for May through October of the following year. Each amount shall be compared to the 1977 base data, thus creating an inflation adjustment factor. Each inflation adjustment factor shall be applied to the appropriate winter or summer Base Period amount. The totals shall be averaged to arrive at the annual Heating and Cooling Standard Utility component.

2. The minor Non-Heating and Cooling Standard Utility component described at N.J.A.C. 10:87-12.1(d)2 shall be included in the HCSUA.]

(c) Standard utility allowances have been established pursuant to 7 CFR 273.9(d)(6)(iii). A household may qualify for one utility deduction based on household expenses identified in N.J.A.C. 10:87-5.10(a)5. The standard utility allowances available to NJ SNAP households include the Heating and Cooling Standard Utility Allowance (HCSUA), Limited Utility Allowance (LUA), and the Uniform Telephone Allowance (UTA). Standard utility allowances are updated annually on October 1st, and are calculated using the following methodologies:

1. HCSUA. A standard base period amount was established using the "Texas" methodology described in USDA Notice No. 79-47, issued May 25, 1979, and it is updated annually for inflation adjustments. The base period amount shall be updated annually for inflation adjustments using the U.S. Bureau of Labor Statistics' Consumer Price Index-All Urban Consumers for Fuels and Utilities. The current year's index for June shall be compared to the index two years earlier to determine a percent change, and the percent change shall be applied to the prior year's Base Period amount to determine the annual

HCSUA. Should the percent change be negative, the previous year's HCSUA shall be utilized.

2. LUA. A base period was established using the "Texas" methodology described in USDA Notice No. 79-47, issued May 25, 1979, and it is updated annually for inflation adjustments. The Base Period amount shall be updated annually for inflation adjustments utilizing the U.S. Bureau of Labor Statistics' Consumer Price Index-All Urban Consumers for All Items. The current year's index for June shall be compared to the index two years earlier to determine a percent change, and the percent change shall be applied to the prior year's Base Period amount to determine the annual LUA. Should the percent change be negative, the previous year's LUA shall be utilized.

3. UTA. A standard base period amount was established by totaling the Verizon Telephone Company's highest regional Flat Rate charge for New Jersey, the FCC subscriber line charge, wire maintenance fees, and applicable Federal tax and it is updated annually for inflation adjustments. The Base Period amount shall be updated annually for inflation adjustments utilizing the U.S. Bureau of Labor Statistics' Consumer Price Index-All Urban Consumers for Telephone Services. The current year's index for June shall be compared to the index two years earlier to determine a percent change, and the percent change shall be applied to the prior year's Base Period amount to determine the annual UTA. Should the percent change be negative, the previous year's UTA shall be utilized.