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Low-Income
Customers
Proposal to Benefit
Low-Income
Seriously Ill
Customers
Witness/Type of Exhibit: Heggemann/Direct
Sponsoring Party: Legal Services of
Eastern Missouri, Inc.
Case No.: GR-2021-0108

DIRECT TESTIMONY
OF
JENNIFER HEGGEMANN

Submitted on Behalf of Legal Services of Eastern Missouri, Inc.

SPIRE MISSOURI, INC.

CASE NO. GR-2021-0108

May 12, 2021

DIRECT TESTIMONY
OF
JENNIFER HEGGEMANN
LEGAL SERVICES OF EASTERN MISSOURI, INC.
CASE NO. GR-2021-0108

INTRODUCTION

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Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS

A. My name is Jennifer Heggemann. My business address is Legal Services of Eastern Missouri, Inc., 4232 Forest Park Avenue, St. Louis, MO 63108.

Q. WHAT IS YOUR CURRENT POSITION?

A. I am Director of Social Work for Legal Services of Eastern Missouri, Inc. (“LSEM”), a private non-profit organization dedicated to advancing justice through legal representation, education and supportive services. LSEM provides high quality civil legal assistance and equal access to justice for low-income individuals and families in 21 Missouri counties. Among other things, LSEM assists families and individuals facing housing issues, including eviction, utility debt and disconnections and reconnections, poor living conditions, loss of housing assistance, and discrimination. Housing and utility assistance is core to LSEM’s mission because LSEM’s clients’ health, well-being, and survival depend upon their ability to be safely housed and have uninterrupted access to basic utility services, including natural gas utility service provided by Spire.

Q. PLEASE BRIEFLY DESCRIBE YOUR EDUCATIONAL AND PROFESSIONAL BACKGROUND

A. I received a Bachelor of Arts degree in Sociology from Suffolk University in Boston, Massachusetts in 1997. In 1999, I received a Master of Social Work degree from the George

1 Warren Brown School of Social Work at Washington University in St. Louis, Missouri. I joined
2 LSEM in 1999 as a social worker with the Housing Law Program and Homeless Legal Project and
3 later became LSEM's first Director of Social Work in 2006. Throughout my 21-year career at
4 LSEM, I have always specialized in advocacy for low-income renters and homeowners and people
5 experiencing homelessness.

6 Q. PLEASE BRIEFLY DESCRIBE YOUR CURRENT RESPONSIBILITIES

7 A. I coordinate and manage all of LSEM's social work programs, and directly supervise
8 LSEM's team of social workers. In that capacity I am directly involved in working with many LSEM
9 clients who experience issues with their natural gas utility service from Spire, including threatened
10 and actual disconnections, efforts to obtain reconnections, massive unpaid utility debt and
11 unaffordable bills made even more unaffordable by the imposition of punitive late fees. In addition,
12 I am directly involved in working with LSEM clients who apply for natural gas utility bill assistance
13 available to low-income customers, and payment plans made available by Spire.

14 Q. HAVE YOU PREVIOUSLY FILED TESTIMONY BEFORE THE MISSOURI PUBLIC
15 SERVICE COMMISSION ("COMMISSION")?

16 A. No.

17 PURPOSE OF YOUR TESTIMONY

18 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

19 A. The purpose of my testimony is to explain some of the ways that Spire's proposed rate
20 increase in this case is likely to adversely impact Spire's low-income customers such as LSEM's

1 clients. In addition, I recommend that the Commission consider ordering Spire to explore
2 establishing and participating in a program designed to help ensure that medically vulnerable low-
3 income customers, including some of LSEM's clients, are adequately protected from disconnection
4 of their natural gas service where continuation or resumption of that service is critical to
5 preservation of their health and safety.

6 UNAFFORDABILITY OF NATURAL GAS SERVICE FOR LOW-INCOME CUSTOMERS

7 Q. HOW WOULD SPIRE'S PROPOSED RATE INCREASE ADVERSELY IMPACT SPIRE'S
8 LOW-INCOME CUSTOMERS SUCH AS LSEM'S CLIENTS?

9 A. Simply put, many of LSEM's clients already struggle to pay their Spire bills, and will struggle
10 even more if there is any increase to their bills as a result of this rate case proceeding. It is
11 commonplace for LSEM's clients to be faced with the choice of paying either the natural gas bill,
12 or paying another important obligation, such as another utility bill, or a car repair bill. Sometimes,
13 the choices can be even starker: in order to pay as much as possible to try to avoid a natural gas
14 service disconnection for nonpayment, LSEM's clients have at various times been forced to forego
15 necessary medical treatment for themselves or their family members, or to forego buying enough
16 food for themselves and their families. Such situations where LSEM's clients must make
17 impossible choices between maintaining natural gas service and paying for another necessity are
18 not rare among LSEM's client population; they are a fact of life. And while LSEM sees many of its
19 clients encounter these conundrums, these examples are just the tip of the iceberg: there are many
20 thousands more low-income persons in Missouri who are similarly situated in terms of their inability
21 to afford natural gas service.

1 Q. WHAT IS THE EVIDENCE THAT MANY THOUSANDS OF SPIRE CUSTOMERS
2 STRUGGLE TO AFFORD NATURAL GAS SERVICE?

3 A. Spire's own data reflect that many thousands of Spire customers struggle to afford natural
4 gas service at current rates. For just the period August through December 2020, there were more
5 than 145,000 customers each month who were past due on their natural gas bills, more than
6 20,000 customers each month who received a final disconnection notice, and more than 20,000
7 customers each month participating in Spire's payment plans that are designed for customers who
8 find it difficult to keep current with their natural gas bills.¹ While it might be natural to expect that
9 these numbers are only so high because of the once-in-a-lifetime adverse financial impact of the
10 COVID-19 pandemic on Spire's customers, what is truly remarkable is that in the "normal" non-
11 pandemic year of 2019, the numbers are not very different: less than a 1% difference in the number
12 of past due customers in the aggregate for August through December 2019 (737,051) as for August
13 through December 2020 (742,844), and lower but still very high numbers of customers receiving
14 final disconnection notices and participating in payment plans.² There is only one reasonable
15 conclusion that can be drawn from these numbers: the cost of Spire's natural gas service is already
16 too high for many Missourians including LSEM's clients, and should not be increased any further,
17 lest even more customers become at risk of disconnection and the detrimental effects of enormous
18 unpaid natural gas service bills. This is most true for low-income customers such as LSEM's
19 clients, whose energy burden is disproportionately high relative to their income and resources.

¹ See STAFF REPORT ON UTILITY DATA REQUEST RESPONSES, filed on January 22, 2021, in In the Matter of a Working Case to Consider Best Practices for Recovery of Past-Due Utility Customer Payments After the COVID-19 Pandemic Emergency (Missouri Public Services Commission File No. AW-2020-0356), at 20-21.

² See id.

1 Q. HOW DO UNPAID NATURAL GAS SERVICE BILLS AFFECT LOW-INCOME
2 CUSTOMERS SUCH AS LSEM'S CLIENTS?

3 A. While the challenge of maintaining natural gas service and avoiding disconnection is
4 already insurmountable for many of LSEM's clients based on their own incomes and resources,
5 based on my experience, the truth is that even with the financial assistance that is available to low-
6 income persons to help pay for natural gas service, many people get disconnected anyway, and
7 are saddled with enormous debts for unpaid prior bills. These debts haunt LSEM's clients, severely
8 hampering their ability to escape the cycle of debt and generational poverty. As just one example
9 of the direct adverse impact of an unpaid natural gas service debt on LSEM's clients, such debt
10 can and does limit the affordable housing options available to LSEM's clients, and can lead to
11 eviction and homelessness. Specifically, it is commonplace for landlords to require that tenants
12 such as LSEM's clients initiate natural gas service in their own names as a condition for approving
13 a rental contract, and then maintain service as a condition of continuing a lease arrangement.
14 Initiation is impossible if the tenant cannot afford to reconnect service due to a multi-thousand
15 dollar unpaid natural gas service debt from a prior address that must be repaid before
16 reconnection, and disconnection becomes a constant threat to housing stability as natural gas
17 service debt gets higher and higher. I believe that any increase in Spire's rates is likely to
18 exacerbate these problems for LSEM's clients, because an increased cost of service will make it
19 even less likely that LSEM's clients and others like them will be able to afford to pay their natural
20 gas service bills on time and avoid disconnections. And when disconnection inevitably does
21 happen, more low-income natural gas service customers such as LSEM's clients will struggle to
22 get out from under those debt burdens, sometimes contributing directly to eviction and
23 homelessness.

1 Q. HOW DO LATE FEES IMPOSED FOR LATE PAYMENT AFFECT LOW-INCOME
2 NATURAL GAS SERVICE CUSTOMERS SUCH AS LSEM'S CLIENTS?

3 A. A reduction in timely bill payment due to an increase in rates will also lead to the imposition
4 of even higher levels of punitive late fees on low-income customers such as LSEM's clients. Based
5 on observations of LSEM's clients, much of their unpaid natural gas service debt is often composed
6 of late fees that continue to accrue on unpaid balances until disconnection. A fairly typical scenario
7 is as follows: a hypothetical LSEM client on a fixed income of \$800 a month has accrued an
8 overdue balance of \$2,000 for natural gas service, despite doing their best to make partial
9 payments as often as possible to avoid disconnection, and despite periodically obtaining some
10 LIHEAP assistance. That \$2,000 balance increases by 1.5% per month solely on account of
11 permitted late fees even before the actual cost of service; in this typical scenario, that late fee is
12 then \$30 per month, an amount that on its own is often at the limits of what this hypothetical LSEM
13 client can afford to pay on a monthly basis. In my experience with LSEM's clients, such a late fee
14 does nothing to incentivize a person to pay their Spire bill on time when they cannot afford to pay
15 the bill in the first place: money does not appear out of thin air.

16 Continuing, cumulative late fees therefore end up making natural gas service even more
17 unaffordable for low-income customers like LSEM's clients, and such fees mean that the poorest
18 customers, including LSEM's clients, may actually pay higher total amounts for service than
19 anyone else. In effect, to the extent the late fees collected exceed the utility's actual cost of
20 collecting overdue amounts, the fees would seem to function as a punitive transfer of money from
21 low-income persons and taxpayers who pay for programs such as LIHEAP, to the shareholders of
22 the utility, here Spire. And if the requested rate increase is approved, it will only increase the

1 energy burden on low-income customers such as LSEM's clients, and the corresponding likelihood
2 of non-payment or late payment, and therefore will also increase the amount of late fees they must
3 shoulder. This is the very definition of a vicious, usurious and regressive cycle, victimizing those
4 least able to protect themselves.

5 Q. HOW WOULD AN INCREASE IN NATURAL GAS SERVICE RATES AFFECT
6 MEDICALLY VULNERABLE LOW-INCOME SPIRE CUSTOMERS, INCLUDING SOME OF
7 LSEM'S CLIENTS?

8 A. Another area where increased natural gas service rates are likely to adversely impact
9 LSEM's clients is with respect to the subset of LSEM's clients who have serious medical conditions
10 and rely on natural gas services for certain immediate health and safety needs. These are
11 customers who are particularly vulnerable to a disconnection and, due to a disability resulting from
12 their serious medical condition, may be least able to protect themselves from disconnection. While
13 I recognize that Missouri does provide for some protections from utility disconnections for seriously
14 ill low-income customers, sometimes those customers, including some of LSEM's clients, fall
15 through the cracks and get disconnected anyway. Sadly, this is likely to become more common if
16 a rate increase is permitted because this subset of customers will become even less likely to be
17 able to afford to pay their natural gas bills.

18 Q. PLEASE SUMMARIZE YOUR TESTIMONY REGARDING THE UNAFFORDABILITY OF
19 NATURAL GAS SERVICE FOR LOW-INCOME CUSTOMERS SUCH AS LSEM'S CLIENTS

20 A. Based on my personal experiences working with many LSEM clients, and on Spire's own
21 data, it is clear that natural gas service is already unaffordable for tens of thousands of
22 Missourians, including LSEM's clients, and that an increase in the cost of natural gas service as

1 requested by Spire in this rate case proceeding will have very predictable and inequitable
2 outcomes: even more people will have overdue bills (increased by the imposition of punitive late
3 fees), even more people will have final disconnection notices, even more people, including more
4 seriously ill people, will be subject to disconnection, and even more people will be burdened with
5 crushing unpaid natural gas service debt that helps ensure they remain impoverished and can
6 contribute to homelessness. In this rate case proceeding I therefore suggest that, for all of the
7 reasons set out above, the Commission should reject Spire's request for a rate increase because
8 of the likely adverse impacts of the proposed increase on low-income natural gas service
9 customers such as LSEM's clients.³

10 RECOMMENDATION DESIGNED TO ADDRESS SPECIFIC CHALLENGES FACED BY
11 SERIOUSLY ILL LOW-INCOME SPIRE CUSTOMERS INCLUDING SOME OF LSEM'S
12 CLIENTS

13 Q. WHAT RECOMMENDATION WOULD YOU MAKE TO ADDRESS SPECIFIC
14 CHALLENGES FACED BY SERIOUSLY ILL LOW-INCOME SPIRE CUSTOMERS INCLUDING
15 SOME OF LSEM'S CLIENTS?

16 A. I recommend that the Commission order Spire to explore establishing and participating in
17 a program designed to help ensure that medically vulnerable low-income customers, including
18 some of LSEM's clients, are adequately protected from disconnection of their natural gas service
19 where continuation or restoration of that service is critical to preservation of their health and safety.

³ While I believe that all utility customers, including Spire customers, should ultimately be entitled to those rights set out in National Consumer Law Center's recently published "Essential Utility Services During the COVID-19 Pandemic and Beyond: A Roadmap to Utility Service as a Human Right" (attached to this testimony as Appendix A), I recognize that arguing for such reforms may go beyond the scope of this proceeding.

1 I have recently become aware of a program piloted and now fully implemented in the State of
2 Maryland that is designed specifically to protect seriously ill low-income utility customers, including
3 natural gas customers. That program is described in summary form at page 17 of National
4 Consumer Law Center's "Protecting Seriously Ill Consumers from Utility Disconnections: What
5 States Can Do to Save Lives Now", published in February 2021 and attached here as Appendix
6 B. In short, the program, called the "Critical Medical Needs Partnership", is a partnership between
7 utilities, state and private agencies, medical facilities and others that is designed to streamline and
8 expedite the processes that help seriously ill utility customers stay connected to utility services,
9 including natural gas service.

10 Q. PLEASE BRIEFLY DESCRIBE THE PRINCIPAL IMPETUS FOR AND ELEMENTS OF
11 MARYLAND'S CRITICAL MEDICAL NEEDS PARTNERSHIP

12 A. Based on publicly available materials, including the NCLC publication attached as
13 Appendix B, the principal impetus for Maryland's Critical Medical Needs Partnership was to
14 develop protocols for (1) the identification of medically vulnerable customers in danger of losing
15 utility service, or who have lost service, (2) the maintenance or restoration of service to customers
16 with critical medical needs, and (3) an efficient process for applying for and obtaining funds to pay
17 utility bills to ensure maintenance of service.

18 More specifically, a system was set up so that customer-facing staff (known as
19 "Navigators") at medical facilities and at public and private assistance agencies are trained to
20 identify medically vulnerable persons in danger of losing utility services. Navigators are then
21 empowered to help identified customers complete a simple application, designed with the input of
22 utilities and agencies that administer low-income utility assistance programs, that allows for a

1 disconnection to be stopped or a reconnection to be accomplished, in each case on an expedited
2 basis to preserve or restore access to essential utility services. In Maryland, these protocols have
3 allowed for a more proactive identification and protection of seriously ill customers, and for more
4 efficient access to funds available for utility assistance, to the benefit of the utilities participating in
5 the program. In my opinion, a program such as this is likely to be of great benefit to Spire's low-
6 income medically vulnerable customers such as some of LSEM's clients. LSEM is ready to
7 participate in exploring the development of a program like this, and could potentially be one of the
8 private parties with trained Navigators who help ensure the program reaches vulnerable
9 customers.

10 Q. PLEASE SUMMARIZE YOUR RECOMMENDATION REGARDING SPECIFIC
11 CHALLENGES FACED BY SERIOUSLY ILL LOW-INCOME SPIRE CUSTOMERS INCLUDING
12 SOME OF LSEM'S CLIENTS

13 A. I believe that all seriously ill Missourians, including LSEM's clients, deserve a program that
14 protects them in a similar manner to Maryland's Critical Medical Needs Partnership program, and
15 I recommend that the Commission order that Spire explore establishing and participating in a
16 program that is based on, or is designed to achieve similar results to the Maryland program.

17 Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?

18 A. Yes.

APPENDIX A TO DIRECT TESTIMONY OF JENNIFER HEGGEMANN

CASE NO. GR-2021-0108

“Essential Utility Services During the COVID-19 Pandemic and Beyond: A
Roadmap to Utility Service as a Human Right”

Published by National Consumer Law Center, March 2021

(see attached)



National
Consumer Law
Center



Essential Utility Services During the COVID-19 Pandemic and Beyond: A Roadmap to Utility Service as a Human Right

March 2021

- Safe, reliable, and affordable energy utility service — including heat, cooling, and light — is an essential human need.
- Safe, reliable, and affordable water and sanitation are essential human needs.
- Reliable, robust, and affordable broadband internet service is an essential human need.
- No household should be disconnected from these essential utility services based on the inability to pay.
- State laws, including those that direct the actions of public utility commissions and municipalities, and cooperatives, should explicitly recognize that uninterrupted utility service is an essential human need and essential to public health and safety.
- Utility service should be affordable for all households. In practice, that requires targeted, effective utility affordability programs sufficient to meet the needs of economically distressed households (such as percentage of income payment plans and/or discount rates).
- Utility billing and collection practices should recognize that uninterrupted utility service is an essential human need. In practice, that requires affordable debt retirement programs and prohibits, at a minimum, the assessment of late payment and reconnection fees, deposits, liens, sale of debt to debt buyers, and other aggressive collection practices.
- Utilities should monitor for and report on disparities in impacts by race and ethnicity on billing, collection, and termination practices, and all services provided, and correct any identified disparities.
- Utilities should provide robust and targeted energy and water efficiency services for economically distressed households.

APPENDIX B TO DIRECT TESTIMONY OF JENNIFER HEGGEMANN

CASE NO. GR-2021-0108

“Protecting Seriously Ill Consumers from Utility Disconnections: What States Can
Do to Save Lives Now”

Published by National Consumer Law Center, February 2021

(see attached)



PROTECTING SERIOUSLY ILL CONSUMERS FROM UTILITY DISCONNECTIONS

WHAT STATES CAN DO TO SAVE LIVES NOW



National
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February 2021



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for Economic Justice*

ABOUT THE NATIONAL CONSUMER LAW CENTER

Since 1969, the nonprofit National Consumer Law Center® (NCLC®) has used its expertise in consumer law and energy policy to work for consumer justice and economic security for low-income and other disadvantaged people in the United States. NCLC's expertise includes policy analysis and advocacy; consumer law and energy publications; litigation; expert witness services, and training and advice for advocates. NCLC works with nonprofit and legal services organizations, private attorneys, policymakers, and federal and state government and courts across the nation to stop exploitative practices, help financially stressed families build and retain wealth, and advance economic fairness.

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ABOUT THE AUTHORS

Olivia B. Wein has been an attorney at the National Consumer Law Center (NCLC) for over 20 years. Olivia focuses on policies and programs that protect low-income consumers' access to essential utility services, including water, energy, and telecom. She advocates for a strong federal Lifeline telecommunications program and other programs and policies that will close the broadband divide. Olivia also works on the Low Income Home Energy Assistance Program (LIHEAP), Weatherization programs and intervenes in federal and state utility commission proceedings in matters affecting low-income utility consumer programs and protections. She is co-author of NCLC's [Access to Utility Service](#).

Charlie Harak is senior attorney for energy and utilities issues at the National Consumer Law Center. He represents consumers before regulatory agencies, testifies at legislative hearings, and provides legal and policy counsel to low-income advocates, legal services lawyers, and government officials. He also devotes much of his time to training lawyers, advocates, and front-line social services staff regarding the rights of utility customers, and contributes to [NCLC legal manuals and publications](#). Much of Charlie's work also focuses on energy efficiency issues, including federal appliance efficiency standards and advocating for larger and smarter energy efficiency investments in affordable multifamily housing, and climate change.

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PROTECTING SERIOUSLY ILL CONSUMERS FROM UTILITY DISCONNECTIONS

WHAT STATES CAN DO TO SAVE LIVES NOW

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EXECUTIVE SUMMARY

Each year, millions of utility customers have their service terminated for non-payment. Many of those are low-income households in which someone is seriously ill. In extreme cases, termination of service to those households has led to death. Much more frequently, loss of electric or gas service makes existing illnesses or conditions worse. Utility service is often essential, for example, for refrigerating medications, powering needed medical equipment, or simply maintaining adequate temperature in the home. Disconnection from utility service is especially dangerous for vulnerable populations: the very ill and the very young and old, in particular.

In each of the 50 states and in D.C., utility commissions set the rules regarding when and how the companies they regulate can terminate vital electric and gas service for non-payment. As this report details, some states provide strong protections against termination of households where someone is seriously ill, while other states provide very little or no protection.

These differing rules can, quite literally, mean the difference between life and death. In 2019, an elderly customer with heart disease and diabetes was disconnected due to having an arrearage of \$51; she died. In 2018, an elderly customer dependent on an oxygen machine died when her electricity was disconnected, despite frantic efforts of family members to alert the company to the customer's fragile status.

Strong serious illness protection rules can prevent tragedies like these from happening. Almost all the states already have some sort of serious illness protection in their statutes or public utility rules. However, a few states—Alabama, Alaska, Louisiana, and North Carolina—have *no* enforceable restrictions on terminating utility service for seriously ill customers. Moreover, many of the existing state laws and regulations are overly narrow, create protections that are difficult to access and not widely known, or provide for an overly short period of protection.

Recommendations

- 1. Broad Scope:** Eligibility for the protection should be broad and should include anyone with a serious illness whose health and safety would be at risk by involuntary disconnection of energy service.
- 2. Diversity of Certifiers:** A wide range of entities should be allowed to certify serious illness, and the utility company should be required to abide by their certification.
- 3. Prompt Initiation and Adequate Duration of Protection:** Seriously ill customers must be able to obtain the protection against disconnection promptly, and the duration of the protection should correlate with the customer's health needs.

-
- 4. Adequate Notice and Easily-Accessible Process:** Utilities should be required to notify customers of the serious illness protection rules, with an explanation of a clear and simple application procedure, and in multiple languages as appropriate to that utility's service territory.
 - 5. Affirmative Outreach:** Utilities should act affirmatively to identify medically fragile customers and avoid terminating their service.
 - 6. Monitoring and Enforcement:** Utilities should be required to collect, report, and analyze data, at a granular level (e.g., by zip code), to monitor the administration of the protections.

INTRODUCTION

The Importance of Strong Serious Illness Protection Rules to Protect the Health of Vulnerable Consumers

On July 5, 2018, the Public Service Electric and Gas Company of New Jersey shut off the power to 68-year-old Linda Daniels, who depended on an electric-powered oxygen tank, because she had a \$51 arrearage. She died shortly thereafter.¹

On September 7, 2018, a day on which temperatures soared above 100° F, Arizona Public Service cut off the electric service to 72-year-old Stephanie Pullman, based on an overdue balance of \$177. A week later, she was found dead in her apartment. The coroner found that her death was caused by “environmental heat exposure in [a] setting of significant cardiovascular disease.”²

These tragedies are predictable when utility service is terminated for seriously ill customers. Utilities are not only a necessity of modern life,³ but loss of utility service can pose a direct threat to the health and well-being of those living in a home where service is terminated.

The Health Risks Created By Termination of Utility Service

The health of any person can be endangered when exposed to prolonged periods of extreme heat or extreme cold. The danger is much more pronounced for consumers who have a serious illness, are medically vulnerable, rely on medical equipment that requires electricity, or need medications that must be refrigerated.

Cold temperatures affect the cardiovascular and respiratory systems and can suppress immunological reactions. This can lead to illness, such as respiratory infections, or even death. Overly warm temperatures have similarly negative effects on health, especially among elderly populations. Extreme heat can easily lead to death.⁴

Electricity and natural gas disconnections can exacerbate current health hazards or lead to new ones. Cognitive disabilities may hinder a person from taking steps to protect their own health and safety if electricity or natural gas service is disconnected.⁵ Many consumers rely on electricity to keep their medications properly refrigerated or for medical equipment such as oxygen machines, hospital beds, or electric wheelchairs.

Even when loss of electricity or natural gas does not create an immediate risk to life, it can have serious negative health consequences. Low-income consumers with a serious illness are at heightened risk of poor health outcomes when they are forced to divert scarce funds for other essential needs to head off involuntary utility terminations. This condition is referred to in the academic literature as “energy insecurity.” While the Low Income Home Energy Assistance Program (LIHEAP) helps to pay the energy bills of low-income households, it is not an entitlement program and is

chronically underfunded relative to the need. Recipients of LIHEAP report foregoing medicine, medical care, and food to pay for essential heating service in the winter.⁶

For many low-income households, energy insecurity can lead to “difficulty accessing health care, fear of losing housing, and living in potentially unsafe buildings and neighborhoods.”⁷ Residents of energy-insecure households consume 10% fewer calories and lose 10% more weight during the winter season.

Young children in households experiencing energy insecurity are also more likely to face housing and food insecurity. These children are more likely to be in only fair or poor health, be hospitalized at least once after birth, and “be at risk for developmental delays.”⁸

ABOUT THIS REPORT

This report is a resource for state policymakers and consumer advocates seeking to improve the statutes and rules in their states that protect against utility termination when a household member is seriously ill. It starts with an articulation of the principles that should guide the creation of these policies. It then addresses the question of the specific provisions that states should adopt to implement these principles, and highlights examples that may serve as models. It concludes with recommendations for the states.

The statutes and rules cited in this report are those that apply to the investor-owned electric and natural gas companies that are under the jurisdiction of the state utility commission (typically called the Public Utility Commission, Public Service Commission, Department of Public Utilities, or something similar). In some locales, gas or electricity is provided by a publicly-owned municipal utility or a membership-owned utility cooperative. State utility commissions usually do not have authority to regulate these entities, but their governing bodies—the local government or agency, or cooperative board—have the authority to adopt serious illness protections. This report can serve as a guide to framing those protections as well as those adopted by public utility commissions.

How Serious Illness Protection Rules Work

Alabama, Alaska, Louisiana, and North Carolina have no enforceable restrictions on terminating utility service for seriously ill customers.

Serious illness protection rules are the primary way that states seek to prevent the health risks caused by terminating utility service to a household that includes a seriously ill individual. Typically, these rules prohibit termination of utility service when a health care professional certifies that an individual in a low-income household has a serious illness. How long the prohibition lasts and whether it can be renewed varies widely from state to state. Often the household will be required to enter into some sort of payment plan for the past-due bill in order to obtain the protection against termination.

Most states have some sort of serious illness protection in their statutes or public utility rules. However, a few states—Alabama, Alaska, Louisiana, and North Carolina—have *no* enforceable restrictions on terminating utility service for seriously ill customers.⁹ Moreover, many of the existing laws and regulations are overly narrow, create protections that are difficult to access and not widely known, or provide for an overly short period of protection. There is much more than can and should be done.

Principles for a Strong Serious Illness Rule

A strong serious illness protection rule should meet six main principles:

- 1. Broad Scope:** Eligibility for the protection should be broad and should include anyone with a serious illness whose health and safety would be put at risk by involuntary disconnection of energy service.

A state's definition of "serious illness" should include a broad range of physical, mental, and emotional conditions for customers who cannot afford to pay their energy bills.

- 2. Diversity of Certifiers:** A wide range of entities should be allowed to certify serious illness, and the utility company should be required to abide by their certification.

To reflect the limited access to health care and health care providers that many low-income consumers encounter, the persons who can certify serious illness should include a broad range of medical professionals and others who can attest to the customer's health status: for example, medical doctor, nurse practitioner, physician assistant, psychiatrist, psychologist, and local board of health. The judgment of the certifying professional should be conclusive unless challenged at the utility commission by the utility.

- 3. Prompt Initiation and Adequate Duration of Protection:** Seriously ill customers must be able to obtain the protection against disconnection promptly, and the duration of the protection should correlate with the customer's health needs.

Serious illness protection rules must allow the customer to obtain protection (whether a reconnection or a suspension of a termination) via a phone call, with a health professional's certification of a serious illness to be submitted within an approved time frame (for example, within 7 days).

The initial disconnection protection should last at least 30 days and should be renewable for the duration of the medical condition.

- 4. Adequate Notice and Easily-Accessible Process:** Utilities should be required to notify customers of the serious illness protection rules, with an explanation of a clear and simple application procedure.

Utilities should notify customers of the serious illness protection rules at initiation of service and whenever collection and disconnection notices are sent. Notices should be made available in multiple languages, where relevant to the territory.

To simplify procedures, states should adopt a standard form for serious illness certification.

- 5. Affirmative Outreach:** Utilities should act affirmatively to identify medically fragile customers and avoid terminating their service.

States should ensure that company service representatives and field agents are trained to solicit information regarding any serious illness in the household, and that they will postpone a termination pending certification of the illness.

- 6. Monitoring and Enforcement:** Utilities should be required to collect, report, and analyze data, at a granular level (e.g., by zip code) to monitor the administration of the protections.

CRAFTING A STRONG SERIOUS ILLNESS PROTECTION POLICY

- 1. Eligibility for the protection should be broad and should include anyone with a serious illness whose health and safety would be put at risk by involuntary disconnection of energy service.*

Eligibility for serious illness disconnection protection should be broadly defined to include low-income customers and members of their household whose health or well-being could be compromised by disconnection of electric or natural gas service due to an inability to pay the utility bill.

Eligibility for the protection should be broad and should include anyone with a serious illness whose health and safety would be put at risk by involuntary disconnection of energy service.

Deciding on the breadth of a serious illness protection involves a trade-off between avoiding serious harm to households that would be terminated under narrow rules versus the potential loss of revenue to the utility under broader rules. As real-life examples demonstrate, lives may be on the line when terminations occur, and health and well-being are quite frequently at risk. Utility commissions should err on the side of protecting lives and health. Utilities run the risk of litigation and reputational harm if the customer needs to be hospitalized or dies due to disconnection of essential utility service while seriously ill.

The National Consumer Law Center (NCLC) recommends that states use expansive criteria, making the protection applicable whenever a medical or other professional familiar with the household member's medical condition certifies that there is a serious illness or medical condition which creates a risk of harm from disconnection of utility service. The definition should be broad enough to include conditions that would be aggravated by a loss of utility service, not just those that would result in an immediate threat to the customer's life. It should include a broad range of medical conditions, as loss of utility service can quickly lead to this range of bad outcomes. Appendix A

summarizes the eligibility criteria for disconnection protections for each of the 50 states and the District of Columbia.

A number of states have an appropriately broad definition of what constitutes a serious illness that merits protection. Some simply require that there be a “serious illness,” without further description. In practice, the question whether there is “serious illness” that gives rise to the protection is left to the judgment of the professional who submits the letter or serious illness certification form.

Massachusetts provides a good example of a strong serious illness protection that covers a broad range of serious illnesses. The state’s regulation uses simple language that leaves it up to the medical professional to determine who has a “serious illness”:

No company may shut off or refuse to restore utility service to the home of any customer if:

(a) It is certified to the company:

.....

1. That the customer or someone living in the customer’s home is seriously ill.¹⁰

Idaho,¹¹ Maryland,¹² and Pennsylvania¹³ are other examples of states whose protections against termination apply to a broad range of individuals who are seriously ill. On the other hand, some states, such as Florida, apply their protection to much more limited situations, for example, to situations where the patient is dependent on electrically-powered medical equipment to avoid loss of life or immediate hospitalization. Such a narrow rule places too many low-income, seriously-ill households at risk.

Of course, the scope of the definition of “serious illness” is only part of the picture. If the state’s substantive protections are weak, a broad scope will not do much good. In addition, in some states with broad definitions of serious illness, some aspects of the protection may vary depending on whether the illness is life-threatening.¹⁴

Recommendation

State serious illness protections should apply to any household that includes a person with a serious illness. Rather than attempting to define “serious illness” more specifically, states should rely on the certifying professional’s judgment about whether the condition is a serious illness.

2. A wide range of entities should be allowed to certify serious illness, and the utility company should be required to abide by their certification.

Serious illness protection rules require a health care provider or other professional to submit a certification of the customer’s condition. A well-designed serious illness protection rule allows a broad array of persons, including licensed physicians, osteopaths, registered nurses, physician assistants, certified nurse midwives, public

A well-designed rule allows a broad array of persons to certify serious illness and mandates the utility to abide by the certification (see Massachusetts as a good example).

health officials, and behavioral health care providers to submit this certification.

A broad definition of the health care providers who can certify a physical or mental health condition that will trigger protections is especially appropriate for households that have limited access to health care. Many of these are the same low-income households that are likely to have a seriously ill household member and be unable to pay their utility bills—exactly the households that the regulation should be targeting, rather than excluding. Mental health practitioners, public health agencies, and social service agencies should all have authority to certify a serious illness. In particu-

lar, public health and social service agencies may already be providing services to households in crisis that cannot afford medical care, so they will be knowledgeable about the customer's condition.

Some states, such as Nebraska,¹⁵ give certification authority only to duly licensed physicians, a far too narrow approach. Arkansas is an example of a state that takes a more realistic approach, allowing certification by a physician, nurse, nurse practitioner, physician assistant, and public or private agency providing physical or mental health care services.¹⁶ Wisconsin allows certification by a physician or a public health, social services, or law enforcement official.¹⁷

To reduce the burden of preparing the certification, states should provide a sample certification form. Appendix F includes samples of certification forms and certification requirements from several states. The certification form, and the state's rules, should not require detailed information about the specific nature of the household member's illness, which is highly private, sensitive information. The certification should be limited to a general statement that the patient has a medical condition or—if the state's rules so require—relies on medical equipment, and that disconnection of electricity or natural gas service would potentially endanger the person's health or meets other criteria.

Massachusetts, however, takes an alternative approach, which NCLC urges other states to consider. In practice, some individual companies provide certifying practitioners with forms they have drafted and which are therefore deemed sufficient from the company's perspective. However, the serious illness regulations simply require that the serious illness be certified by a doctor, nurse practitioner, physician assistant, or board of health. There is no **required** form. Thus, in urgent situations, the certifying practitioner can draft a simple letter and immediately fax or mail it to the company. This avoids the delay that can occur when the company offers to first mail the form to the certifying practitioner, slowing down the certification process.

Utility regulators must also specify that the medical professional's determination governs. The utility should not be allowed to second-guess the medical professional's judgment about whether termination of utility service would create a risk to the customer's health. If the utility wants to contest the certification, it should ask the state regulator to investigate it, and, in the meantime, should abide by the duty not to terminate utility service. Maine and Massachusetts are examples of states that have such provisions.¹⁸

Recommendations

Who can certify. The persons who can certify serious illness should include a broad range of medical and social service professionals and others who can attest to the health status of the customer: e.g., physicians, physician assistants, osteopaths, nurse practitioners, nurses, mental health professionals, board of health or public health officials, and social service agencies.

No second-guessing. Utilities should not be allowed to second-guess the practitioner's certification, but should be limited to asking the state regulator to resolve any questions about the certification's legitimacy or sufficiency.

Form of certification. States should provide a sample certification form, and should minimize the amount of specific information about the customer's medical condition that must be provided. However, if the certifying practitioner cannot quickly access the form, a letter that contains the required information should be acceptable.

3. Seriously ill customers must be able to obtain the protection against disconnection promptly, and the duration of the protection should correlate with the customer's health needs.

A strong serious illness protection rule should require the protection against termination to be implemented immediately upon a call by a consumer or health care professional notifying the utility that there is a serious illness/medical situation. The rule should allow the written certification of the serious illness to be submitted within a reasonable period of time following the phone call, recognizing that busy medical practices need time to process the certification. NCLC recommends a 7- to 10-day time frame. Appendix B contains a chart of states that have clear rules regarding the process for initial phone calls and the follow-up certification.

States should not only require that any termination of utility service be stopped for a household that includes a seriously ill individual, but should also require prompt reconnection if the household was already disconnected. The rules should require waiver of

Seriously ill customers must be able to obtain the protection against disconnection promptly, and the duration of the protection should correlate with the customer's health needs (see Massachusetts rule for model language).

any reconnection fee. Appendix C gives examples of states with prompt reconnection rules.

The rule should set forth a clear and adequate time frame for the initial duration of the protection. Given the difficulties seriously ill customers are likely to face in managing their affairs, and the burden upon medical professionals of having to resubmit certification papers, this initial period should be at least 30 days.

Most states' serious illness protections meet this standard. More than a dozen states provide a disconnection protection of 60 days or more,¹⁹ and at least three of these states—Massachusetts, Minnesota, and Montana—provide for an initial 180-day period of protection.²⁰ Almost 20 states provide a 30- to 59-day protection.²¹ However, 10 states provide less than a 30-day protection, and a few either leave the protection period up to the discretion of the utility or do not specify the initial period. Given that a majority of states mandate an initial period of 30 days or more, there is strong precedent for states to mandate at least a 30-day initial period.

Serious illness protection rules should also address renewal of the initial period of protection. About three dozen states have clear rules governing renewals. These rules vary both as to the length of the renewal period (e.g., as short as 15 days and as long as 6 to 12 months) and the number of renewals permitted (e.g., only for a limited number of times, or for as long as the illness lasts, as certified by the appropriate medical or other professional). Massachusetts places no limits on the number of renewals.²² Connecticut places no limit on the number of renewals for life-threatening illnesses, and Michigan has no limit for critical care customers.²³ Appendix D provides details about the renewal provisions in these states, and examples of several other states' policies. Massachusetts' rule is a model for the states with respect to the promptness of the protection, its initial duration, and the ability to renew it.

Recommendations

Immediate implementation of an initial protection of at least 30 days. The protection against termination—including a requirement of prompt reconnection if the household's utility service has been terminated—should go into effect immediately upon receipt of a phone call from the customer or a certifying professional, with a requirement to submit a written certification soon (7 to 10 days) thereafter. The initial period of protection should be at least 30 days, and longer if specified in the letter from the certifying entity.

Renewal. The initial protection should be renewable for the duration of the medical condition, as long as the certifying professional periodically attests that the illness is continuing. Any renewal period should be at least as long as the initial period of protection.

4. *Utilities should be required to notify customers of the serious illness protection rules, with an explanation of a clear and simple application procedure.*

For serious illness protections to be effective, consumers must be aware of them. Often a state's serious illness protection is not well publicized and may be underutilized. Since serious illness protection rules typically put the onus on consumers to notify the utility of a serious illness to obtain disconnection protection, the protections will be effective only if consumers learn of them and how to apply.

Utilities should notify new consumers of these protections at the time service is initiated and annually thereafter, in languages appropriate to the company's service territory. They should ensure that customer service representatives and field agents are well-trained regarding these protections, and include information about these protections in collection and disconnection notices sent to consumers. Any post-disconnection correspondence should also contain information about the serious illness protection rule. All of these communications should include simple, clear instructions about how consumers can avail themselves of the protection.

Connecticut is a good example of a state with strong requirements for notice to consumers. It requires every termination notice to "plainly indicate that the utility company may not terminate residential utility service to the home of any customer during such time as any resident therein is seriously ill."²⁴ In addition, utilities must give customers a summary of consumer rights, including the serious illness protections, when service is initiated and annually thereafter.²⁵ Other states that require routine disclosure of serious illness rights include Michigan, Montana, New York, Rhode Island, Tennessee, Texas, and Wisconsin.

Pennsylvania requires a particularly proactive effort on the part of the utility to ensure that customers know of the protection. The disconnection notice must include a medical certificate notice. At least three days before the scheduled termination, the utility must attempt to contact the customer or a responsible adult occupant by telephone, in person, or, with the customer's consent, electronically. If the utility succeeds in making contact, it must inform the customer of the serious illness protection,

Michigan Retiree Dies after Natural Gas is Terminated

John Skelley, 69, a retired autoworker in Flint, Michigan, died on January 31, 2015 from hypothermia, 11 days after the natural gas for his home was disconnected for non-payment. Mr. Skelley also suffered from chronic heart disease, esophagogastric cancer, and bronchopneumonia, all of which contributed to his death. If the utility company had been notified of these medical conditions, Mr. Skelley would have qualified for the state's medical exemptions from utility termination.

Source: "Hypothermia caused man's death after utility shut-off, autopsy finds," *Lansing News*, May 1, 2015.

Connecticut is a good example of a state with strong requirements for notice to consumers.

State utility commissions should require utilities to provide information about the serious illness protection in languages other than English that are spoken by substantial numbers of their customers.

among other things. In addition, immediately before performing the termination, the utility employee assigned to that task must make another attempt, at the customer’s residence, to contact the customer, and must not proceed with the termination if there is evidence that a serious illness or medical condition exists. If the customer contacts the utility after the issuance of the initial termination notice but before the actual termination, the utility must fully explain the serious illness protection.²⁶

Pennsylvania and Maine also require a post-termination notice. In Maine, this notice must include an information packet about the serious illness protection.²⁷ In Pennsylvania, immediately after service is terminated the utility must post a notice about the serious illness protection at the home or deliver it personally to a responsible adult occupant.²⁸ Appendix E provides more examples of state notice requirements for serious illness protection rules.

Consumers with limited English proficiency (LEP) are particularly vulnerable to lack of awareness about serious illness protections where utility information is provided only in English. State utility commissions should require utilities to provide information

TABLE 1 Examples of States with In-Language Notice of Serious Illness Protection

STATE	CITATION	SUMMARY
Colorado	<i>4 Colo. Admin. Code §§ 723-3:3408 (d) (electric); 4 Colo. Admin. Code § 723-4:4408 (d) (gas).</i>	English and specific language(s) where 10% speak a language other than English.
Connecticut	<i>Conn. Agencies Regs. § 16-3-100(c)(1)(D).</i>	English and Spanish if substantial number of Spanish-speaking people live in the service territory.
New Jersey	<i>N.J. Admin. Code § 14:3-3A.3(e).</i>	Upon notice of customer, notice shall be sent in Spanish.
New Mexico	<i>N.M. Admin. Code § 17.5.410.23, -.29, -.31, -.33, & -.42.</i>	Various notices regarding customer rights, availability of energy assistance/winter moratorium, and regarding termination must be in English and Spanish.
Oregon	<i>Or. Admin R. 860-021-0010(7).</i>	When service is initiated, utility must ask if customer would like notices in a language other than English. Utility must inform consumers of the translations available. Utility must annually report to the commission the number of requests for notices and summaries in non-English and the number of requests for each language.
Rhode Island	<i>810 R.I. Code R. pt. 10-00-1.5(D).</i>	Utility must include on all termination notices, in English, Spanish, Portuguese, French, and any other languages utility deems appropriate, the following statement: “This is a utility service termination notice. Translate immediately.”
Texas	<i>16 Tex. Admin. Code § 25.29(k)(4).</i>	Disconnection notices must be in English and Spanish.

about the serious illness protection in languages other than English that are spoken by substantial numbers of their customers. (See Table 1 for examples.) The public utility commission can facilitate this practice by translating serious illness protection notices—as well as other collection and disconnection notices—into Spanish and any other non-English language spoken in service areas in the state.

Recommendation

Utilities should be required to notify customers of the serious illness protection rules when customers start service, annually thereafter, in collection and disconnection notices and communications, and in any post-disconnection communications, in both English and any other language used by substantial numbers of their customers.

5. Utilities should act affirmatively to identify medically fragile customers and avoid terminating their service.

Making sure that customers receive notices about serious illness protections at key points is an essential first step, but utilities should go farther and proactively seek to identify and help seriously ill customers. A grave illness is likely to impair a customer’s ability even to remember an annual notice of a serious illness protection, much less to find it and take the steps necessary to initiate the protection.

A number of states have stepped up to this challenge and require utilities to take affirmative steps to identify households with seriously ill members and help them take advantage of the protection (see Table 2).

TABLE 2 **Examples of States with Special Process to Identify Medically Fragile Customers**

STATE	CITATION	SUMMARY
Arkansas	<i>Ark. Admin. Code § 126.03.2-6.18 (elderly & disabled).</i>	Utilities must attempt to identify elderly and individuals with disabilities at time of application, when customers ask if there are options for elderly or people with disabilities, and when contacting customers about disconnection.
Delaware	<i>26-3002 Del. Code Regs. § 3.3.6.</i>	Final contact: utility field agent can accept serious illness certification to stop disconnection.
New Jersey	<i>N.J. Admin. Code § 14:3-3A.4(c), (d).</i>	Utility should also make good faith efforts to determine which customers are over 65 (§ 14:3-3A.4(c)). At least quarterly, companies shall solicit information from residential customers to determine the presence of any life-sustaining equipment on the customer’s premises (§ 14:3-3A.4(d)).
North Dakota	<i>N.D. Admin. Code §§ 69-09-02-05.1(2) (electric); 69-09-01-18.1(2) (gas).</i>	Utility shall send annually, as part of the October monthly bill, a preaddressed, postage-paid postcard that asks customer to identify if resident is 65 or older, or has a disability, or has an emergency medical problem.

Another best practice is to give utility field agents clear authority to stop a disconnection if they identify a medical risk to the health of a resident of the household. For example, New Mexico requires that utility employees “shall note any information from the residential customer that a person living in the residential customer’s residence is seriously or chronically ill” and that a supervisor shall then either halt the termination or state in writing why it will not be delayed.²⁹ During cold weather, New York requires that, prior to terminating a heat-related account, field personnel must ascertain whether a serious impairment to health or safety is likely, and may not terminate except by giving advance notice and obtaining approval from the local social services commissioner.³⁰

Some states impose an additional restraint by requiring utilities to notify the state commission prior to disconnection of a residence where someone has been identified as seriously ill. In some states, the utility must get the commission’s prior approval (see Table 3).

Recommendations

Proactive outreach. Utilities should be required to act affirmatively to identify households with seriously ill individuals and help them invoke the serious illness protections, including through extra notification efforts and the grant of authority to field agents to stop terminations.

Public utility commission approval. States should require notice to and approval by the public utility commission before disconnection of a seriously ill customer.

TABLE 3 **Examples of States with a Requirement to Notify Commission Before Disconnection of Medically Fragile Consumer**

STATE	CITATION	NOTIFICATION REQUIREMENT
Hawaii	<i>Haw. Admin. Rules § 6-60-8(c)(3).</i>	Utility may not disconnect service to elderly or disabled customers without an advance written report to the commission, 5 days ahead of scheduled termination.
Montana	<i>Mont. Admin. R. 38.5.1411.</i>	Utility must provide notice to commission at beginning of termination process; commission may require a different payment arrangement than utility offered, or delay termination.
New Hampshire	<i>N.H. Code Admin. R. Ann. PUC 1205.03(b), (e).</i>	For medical emergency customers not on a payment plan, utility must request permission from commission to disconnect. No disconnection if demonstration of good faith effort to pay.
Oregon	<i>Or. Admin. R. 860-021-0410(6).</i>	If medical customer fails to enter into payment arrangement or fails to abide by its terms, utility must notify commission’s Consumer Service Division of its intent to disconnect and reason for the disconnection. A hearing may be held to determine whether utility shall be permitted to disconnect.
Rhode Island	<i>810 R.I. Code R. pt. 10-00-1.4(K), 10-00-1.17.</i>	Utilities must obtain written approval from the Division of Public Utilities and Carriers to disconnect residences where all adults are 62 years of age or older, or where any resident is disabled.

Case Study of a Model Partnership: Maryland's Critical Needs Program

An innovative program in Maryland combines many of NCLC's recommendations to not only help sick consumers access that state's serious illness protection, but also enroll them in other energy assistance programs in an expedited and holistic manner. The Critical Medical Needs Partnership (CMNP) began as a pilot that included the Maryland Office of People's Counsel, Baltimore Gas and Electric Company, the Maryland Office of Home Energy Programs, Maryland Department of Housing and Community Development, the Fuel Fund of Maryland and the Cancer Support Foundation, medical facilities, and others. Subsequently, a state law made this program permanent and expands it throughout the state.³¹

The program recognizes that very ill consumers who have fallen behind on their utility bills may not have the capacity to research and apply for serious illness protection, negotiate reasonable payment plans, and complete applications for federal and charitable bill payment assistance, energy efficiency programs. Yet, their fragile medical conditions make them particularly susceptible to harm should they become disconnected from electricity or natural gas service.

In response, the CMNP streamlines and expedites the processes to help very sick utility customers stay connected. In developing the initial pilot, the goal was to create a system to

fast-track access to the existing array of utility assistance, including repair/replacement of broken heating equipment, and consumer protections for medically fragile consumers.

CMNP is a voluntary program that trains patient "navigators," who are located in hospitals, oncology centers, and public and private assistance agencies that help seriously ill patients. A simple CMNP form was created, and a fast-track protocol was developed by the utilities and the agencies that administer low-income utility assistance programs. The CMNP provides an expedited process to stop a disconnection or quickly reconnect service for a seriously ill consumer and expedite access to other utility assistance to help keep the household connected to essential utility service. The program is housed in the Office of Home Energy Programs of the Family Investment Administration within the Maryland Department of Human Services.

The Maryland program is just one example of the type of partnership with social services and patient advocacy organizations that utilities can explore as a way of proactively identifying and protecting seriously ill customers. These partnerships can create a network of trained patient navigators to help sick patients easily access critical protections, such as the serious illness protections, to preserve access to essential utility services.

6. *Utilities should be required to collect, report, and analyze data to monitor the administration of the protections.*

States should track utilities' use of the serious illness protection rule to identify if the protection is being readily accessed by customers and implemented without unnecessary barriers.

Utilities should be required to collect, report, and analyze data to monitor the administration of the protections (see New Mexico rule).

New Mexico is an example of a state that requires data reporting along these lines. It requires its utilities to maintain records on the number of medical certificates received before and after termination of service; the number of instances when restoration of service took more than 12 hours from the receipt of a medical certificate; and the number of customer households known to the utility where an elderly, disabled, or other person might suffer injury or death if service were discontinued.³²

Recommendation

States should require utilities to collect, report, and analyze data regarding the implementation of their serious illness rules. This reporting should be broken down by zip code and should include:

- Number of serious illness protection requests
- Number of serious illness protection requests granted
- Number of payment agreements (in states where payment agreements are required)
- Number of serious illness account disconnections
- Number of serious illness protection reconnections.

RECOMMENDATIONS

Broad Scope: State serious illness protections should apply to any household that includes a person with a serious illness. Rather than attempting to define “serious illness” more specifically, states should rely on the certifying professional’s judgment about whether the condition is a serious illness.

Certification Process: *Who can certify:* The persons who can certify serious illness should include a broad range of medical and social service professionals and others who can attest to the health status of the customer: e.g., physicians, physician assistants, osteopaths, nurse practitioners, nurses, mental health professionals, board of health or public health officials, and social service agencies.

No second-guessing: Utilities should not be allowed to second-guess the practitioner’s certification, but should be limited to asking the state regulator to resolve any questions about the certification’s legitimacy or sufficiency.

Form of certification: States should provide a sample certification form, and should minimize the amount of specific information about the customer’s medical condition that must be provided.

Implementation and Duration of the Protection:

Immediate implementation of an initial protection of at least 30 days. The protection against termination—including a requirement of prompt reconnection if the household’s utility service has already been terminated—should go into effect immediately upon receipt of a phone call from the customer or a certifying professional, with a requirement to submit a written certification shortly (7 to 10 days) thereafter. The initial period of protection should be at least 30 days, and longer if specified in the letter from the certifying entity.

Renewal. The initial protection should be renewable for the duration of the medical condition, as long as the certifying professional periodically attests that the illness is continuing. Any renewal period should be at least as long as the initial period of protection.

Adequate Notice and Easily-Accessible Process: Utilities should be required to notify customers of the serious illness protection rules when customers start service, annually thereafter, in collection and disconnection notices, and in any post-disconnection communications, in both English and any other language used by substantial numbers of their customers.

Affirmative Outreach:

Proactive outreach: Utilities should be required to act affirmatively to identify households with seriously ill individuals and help them invoke the serious illness protections, including through extra notification efforts and the grant of authority to field agents to stop terminations.

Public utility commission approval: States should require notice to an approval by the public utility commission before disconnection of a seriously ill customer.

Data Collection, Reporting, and Analysis: States should require utilities to collect, report, and analyze data regarding the implementation of their serious illness rules. This reporting should be broken down by zip code and should include:

- Number of serious illness protection requests
- Number of serious illness protection requests granted
- Number of payment agreements
- Number of serious illness account disconnections
- Number of serious illness protection reconnections.

All of these protections should be incorporated into clear, formally adopted state rules, to create a uniform, baseline level of protection throughout the state for customers of regulated natural gas and electric companies. Uniform rules also make it easier for the state utilities commission, utilities, advocates, and others to develop outreach materials on serious illness protections.

ENDNOTES

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2. Elizabeth Whitman, *On 107-Degree Day, APS Cut Power to Stephanie Pullman's Home. She Didn't Live*, Phoenix New Times, June 13, 2019.
3. See, e.g., *Memphis Light, Gas & Water Div. v. Craft*, 436 U.S. 1, 18 (1978) (“utility service is a necessity of modern life [and] the discontinuance of . . . heating for even short periods of time may threaten health and safety”); Antonio Gasparrini, et al., *Mortality risk attributable to high and low ambient temperature: a multicountry observational study*, 386 *The Lancet* 369-375 (July 25, 2015).
4. See, e.g., Antonio Gasparrini, et al., *Mortality risk attributable to high and low ambient temperature: a multicountry observational study*, 386 *The Lancet* 369-375 (July 25, 2015); Jane E. Brody, *Beware: Winter is Coming*, N.Y. Times, Dec. 19, 2016 (cold weather is a “stealth killer” with increases in related deaths “occurring as long as three or four weeks after a cold snap”); World Health Organization, *Climate change and health* (Feb. 1, 2018).
5. Environmental & Climate Justice Program, NAACP, *Lights Out in the Cold—Reforming Utility Shut-Off Policies as If Human Rights Matter* (Mar. 2017); Rachel Zimmerman, *Study of Boston Families in Poverty Finds ‘Energy Insecurity’ Can Also Bring Health Woes - From Asthma to Anxiety*, WBUR, Sept. 12, 2016.
6. National Energy Assistance Directors’ Association, 2018 National Energy Assistance Survey Final Report 18-24 (Dec. 2018).
7. Ariel Drehoobl & Lauren Ross, American Council for an Energy-Efficient Economy, *Lifting the High Energy Burden in America’s Largest Cities: How Energy Efficiency Can Improve Low Income and Underserved Communities* (Apr. 2016).
8. Diana Hernandez, *Energy Insecurity: A Framework for Understanding Energy, the Built Environment, and Health Among Vulnerable Populations in the Context of Climate Change*, 103 *Am. J. Pub. Health* 32-34 (Apr. 2013).
9. Alabama has a rule regarding serious illnesses, Ala. Pub. Serv. Comm’n Gen. R. 770-X-1-12 (5), but it merely requires utility tariffs to set out termination rules “when life or health may be threatened by termination” or customer needs special consideration due to “age or handicap.” An Alaska rule, Alaska Admin. Code tit. 3, § 52.450(c)(2), provides that a customer who is seriously ill, elderly, disabled, or dependent on life-support systems is entitled to a longer pre-termination notice, but does not provide any protection against termination. Louisiana appears to have no statute or rule that addresses serious illness protections. Two North Carolina rules, 4 N.C. Admin. Code 11.R.12-10 (gas), R.12-11 (electric), address serious illness but merely allow utility providers, if they choose, to delay termination if it would cause undue hardship or be especially dangerous to health, or where a resident is elderly or has a disability.
10. 220 Mass. Code Regs § 25.03(1). The medical professional’s certification of serious illness is presumed valid, “unless otherwise determined by the Department [of Public Utilities] after investigation.” 220 Mass. Code Regs. § 25.03(3). The serious illness letter must be renewed quarterly, “except that where illness is certified as chronic, the serious illness shall be renewed every six months.” 220 Mass. Code Regs § 25.03(4). There is no limit on the number of renewals.
11. Idaho Admin. Code r. 31.21.01.308 (applies if resident is seriously ill or has a medical emergency, or will become seriously ill or have a medical emergency if utility service is disconnected).
12. Md. Code Regs. 20.31.03.01 (applies when “serious illness” or “need for life-support equipment” is certified).

13. 56 Pa. Code s. 56.2 (protection applies when there is certification that a customer or member of the customer's household is seriously ill or has been diagnosed with a medical condition which requires the continuation of service to treat the medical condition).
14. For example, some states absolutely prohibit termination if the customer is on utility-driven life support equipment or if termination would likely result in death. If the illness is less serious than that, the customer must enter into a payment plan on the overdue amount and/or renew the serious illness certification letter regularly. Conn. Gen. Stat. § 16-262c(b)(1); Conn. Agencies Regs. § 16-3-100(e); Nev. Admin. Code §§ 704.370 (serious illness), 704.375(3) (life support equipment/risk of death).
15. Neb. Rev. Stat. § 70-1606(1)(g).
16. Ark. Admin. Code § 126.03.2-6.17(B).
17. Wis. Admin. Code PSC §§ 113.0301(13) (electric), 134.062(11) (gas).
18. Me. Admin. Code 65-407 ch. 815, § 11(C) (electric and gas: utility "may not challenge the validity of an oral or written certification with a physician or a physician's agent, unless the utility has reason to believe that fraudulent information has been provided by the customer," at which point the utility "should file for an exemption" from the Consumer Assistance Division); 220 Mass. Code Regs. § 25.03(3) ("Certification of serious illness . . . shall be conclusive evidence of the existence of the condition claimed unless otherwise determined by the Department after investigation."). See also 4 Colo. Code Regs. § 723-3:3407(e)(IV)(C) (electric); 4 Colo. Code Regs. § 723-4:4407(e)(IV)(C) (gas) (medical certificate "shall be incontestable by the utility as to the medical judgment" but utility can use "reasonable means to verify the authenticity of such certification").
19. Colorado, Connecticut, Delaware, Massachusetts, Minnesota, Mississippi, Montana, New Hampshire, New Jersey, New Mexico, Oregon, Texas, and Washington.
20. 220 Mass. Code Regs. § 25.03(3) (180 days, if the illness is denoted as "chronic"); Minn. Stat. § 216B.098 subdiv. 5(c)-(e); Mont. Admin. R. 38.5.1411(1).
21. Arkansas, Florida, Georgia, Iowa, Kentucky, Maine, Nebraska, Nevada, New York, North Dakota, Ohio, Oklahoma, Pennsylvania, South Dakota, Tennessee, Utah, Vermont, and Virginia.
22. 220 Mass. Code Regs. § 25.03(3).
23. Conn. Agencies Regs. § 16-3-100(e)(3)(B); Mich. Admin. Code r. 460.130a(1), (2).
24. Conn. Agencies Regs. § 16-3-100(e)
25. Conn. Agencies Regs. § 16-3-100(c).
26. 52 Pa. Code §§ 56.91(b)(8), 56.93(b), 56.94(1), 56.96, 56.97.
27. Me. Admin. Code 65-407 ch.815, § 10(L)(4).
28. 52 Pa. Code § 56.96.
29. N.M. Admin. Code § 17.5.410.33(B).
30. N. Y. Comp. Codes R. & Regs. tit. 16, § 11.5(c).
31. Chapter 282, HB 1189, Home Energy Assistance - Critical Medical Needs Program (Apr. 30, 2019).
32. N.M. Admin. Code § 17.5.410.25(F)(9)-(11).

APPENDIX A

SERIOUS ILLNESS CRITERIA IN EACH OF THE 50 STATES AND D.C.

This table summarizes the illness/medical condition/age criteria customers must meet either to be protected against termination, or to receive additional notice prior to termination. NOTE that, in some states, only the latter applies — additional notice — and that there is no protection against being terminated.

STATE	CITATION	DEFINITION
Alabama	<i>Ala. Pub. Serv. Comm'n Gen. R. 770-X-1-.12 (5).</i>	Utility tariffs shall set out termination rules “when life or health may be threatened by termination” or customer needs special consideration due to “age or handicap.”
Alaska	<i>Alaska Admin. Code tit. 3, § 52.450(c)(2).</i>	Customer who is seriously ill, elderly, disabled, or dependent on life-support systems entitled to longer pre-termination notice, but no protection against termination.
Arizona	<i>Ariz. Admin. Code § R14-2-211(A) (5), (6) (electric).</i>	No disconnection if customer is unable to pay and certifies termination “would be especially dangerous” to health; “[l]ife supporting equipment ... is dependent on utility service”; but payment plan may be required.
Arkansas	<i>Ark. Admin. Code § 126.03.2-6.17(A) (serious illness).</i>	Termination of service postponed for 30 days (renewable once) if medical certificate certifies that termination would cause “substantial risk of death or gravely impair the health” of customer or permanent household member.
California	<i>Cal. Pub. Util. Code §§ 779(b)(3) (regular serious illness), 779.3 (medical baseline).</i>	Regular serious illness protection: Financially unable to pay & willing to enter into a deferred payment agreement (DPA); if loss of service is life threatening. Medical baseline eligibility: If customer is financially unable to pay and willing to enter into DPA, no termination if: customer under hospice care, depends on life-support equipment, or has a life-threatening condition.
Colorado	<i>4 Colo. Code Regs. §§ 723-3:3407 (electric), 723-4:4407 (gas).</i>	Discontinuance of service will aggravate an existing condition or create a medical emergency.
Connecticut	<i>Conn. Gen. Stat. § 16-262c(b) (1) (seriously ill, life-threatening condition, child under 24 months recently released from the hospital); Conn. Agencies Regs. § 16-3-100(e).</i>	No termination when “any resident therein is seriously ill” as certified by a “registered physician” (Conn. Agencies Regs. § 16-3-100(e)). Absolute protection, year-round, in financial hardship cases where termination would “create a life-threatening situation” or when a child under 2 has been released from hospital with doctor’s note specifying need for utility service; protection, from Nov. 1 to May 1, for “hardship” cases, including those with serious illness (Conn. Gen. Stat. § 16-262c(b)(1)).

APPENDIX A (cont.)

SERIOUS ILLNESS CRITERIA IN EACH OF THE 50 STATES AND D.C.

STATE	CITATION	DEFINITION
Delaware	<i>Del. Code Ann. tit. 26, § 117(d).</i>	So ill that disconnection will adversely affect resident's health or recovery.
District of Columbia	<i>D.C. Mun. Regs tit.15, § 311.1(A).</i>	Disconnection is detrimental to health and safety of occupant.
Florida	<i>Fla. Stat § 366.15 (utility tariffs).</i>	Medically essential: dependence on electric-powered equipment that must be operated continuously or per physician's instruction to avoid loss of life or immediate hospitalization.
Georgia	<i>Ga. Comp. R. & Regs. 515-3-2.03 (electric and gas); 515-3-3.03 (marketers).</i>	Serious illness which would be aggravated by disconnection.
Hawaii	<i>Haw. Admin. Rules § 6-60-8.</i>	Special disconnection process for elderly and disabled.
Idaho	<i>Idaho Admin. Code r. 31.21.01.308.</i>	Resident is seriously ill, or has a medical emergency, or will become seriously ill or have a medical emergency if utility service is disconnected.
Illinois	<i>Ill. Admin Code tit. 83, §§ 280.130(m), 280.160(g), 280.160(d)(4), (j).</i>	Disconnection will aggravate an existing medical emergency or create a medical emergency.
Indiana	<i>170 Ind. Admin. Code 4-1-16 (c) (electric), 5-1-16(c) (gas).</i>	Disconnection would be a serious and immediate threat to the health and safety of resident.
Iowa	<i>Iowa Admin Code rr. 199-19.4(476) (gas), 199-20.4(476) (electric).</i>	Disconnection poses especial danger to the health of any permanent resident. "Especial danger" is indicated if person appears to be seriously impaired (because of mental or physical problems), is unable to manage his/her own resources, carry out activities of daily living, or needs assistance from others to be protected from neglect or hazardous situations. Indicators of an especial danger to health include but are not limited to: age, infirmity, or mental incapacitations; serious illness; physical disability, including blindness and limited mobility; and any other factual circumstance which indicate a severe or hazardous health situation.
Kansas	<i>Kansas Corp. Comm'n Electric, Nat. Gas, Water Billing Standards (Jan 20, 2012).</i>	Disconnection would be especially dangerous to the health of resident. Consideration is given to weather, resident's medical condition, age, or disability.
Kentucky	<i>807 Ky. Admin. Regs 5:006 (sect. 15).</i>	Disconnection would aggravate a debilitating illness or infirmity currently suffered by resident.
Louisiana		No serious illness rule.

APPENDIX A (cont.)

SERIOUS ILLNESS CRITERIA IN EACH OF THE 50 STATES AND D.C.

STATE	CITATION	DEFINITION
Maine	<i>Me. Admin. Code 65-407 ch. 815, § 11.</i>	A medical emergency.
Maryland	<i>Md. Code Regs. 20.31.03.01.</i>	Disconnection will aggravate a serious illness or prevent the use of life-support equipment.
Massachusetts	<i>220 Mass. Code Regs. § 25.03.</i>	A serious illness as certified by appropriate authority listed in the regulation.
Michigan	<i>Mich Admin Code RR. 460.130 (medical emergency), 460.130a (critical care customer).</i>	Medical emergency: Resident has a medical condition, requires medical equipment for a medical emergency, and certification sets out the specific time period where disconnection will aggravate the medical emergency. Critical care customer: One for whom an interruption of service would be immediately life-threatening.
Minnesota	<i>Minn. Stat. § 216B.098 subdiv. 5.</i>	Medical emergency or medical equipment requiring electricity to sustain life.
Mississippi	<i>39 Miss. Admin. Code RR. 8.120 (mid-winter and medical emergency), 8.125 (life-threatening).</i>	No termination Dec. through March, if certification of financial hardship and (undefined) “medical emergency” + payment plan made (R. 8.120); separately, 60 days of protection if life threatening situation certified (R. 8.125).
Missouri	<i>4 Mo. Code Regs Ann. tit. 4, § 240-13.050 (risk of death/gravely impair health).</i>	Serious medical condition: disconnection would rapidly give rise to a substantial risk of death or gravely impair the health of resident.
Montana	<i>Mont. Admin. R. 38.5.1411.</i>	Loss of service would aggravate an existing medical condition which would threaten the health of resident.
Nebraska	<i>Neb. Rev. Stat. § 70-1606(1)(g).</i>	Resident has an existing illness or disability that would cause the resident to suffer an immediate and serious health hazard by the disconnection of the utility’s service to that household
Nevada	<i>Nev. Admin. Code §§ 704.370 (serious illness), 704.375 (life-support equipment).</i>	Regular serious illness: Termination would be especially dangerous to the health of resident and constitute an emergency affecting health. May consider the feebleness, advanced age, physical disability, mental incapacity, serious illness, or other infirmity of resident. Life support: Resident is confined to location where service is provided; on a life-support device; will likely die if service is terminated.
New Hampshire	<i>N.H. Code Admin. R. Ann. PUC 1205.02.</i>	Physical or mental health condition which would be a danger to the physical or mental health of the resident.

APPENDIX A (cont.)

SERIOUS ILLNESS CRITERIA IN EACH OF THE 50 STATES AND D.C.

STATE	CITATION	DEFINITION
New Jersey	<i>N.J. Admin. Code § 14:3-3A.2; see also N.J. Stat. Ann. § 48:2-29.48 to 48:2-29.53 (Linda's Law, eff. Jan.1, 2020 re: electric service).</i>	Serious illness: Medical emergency which would be aggravated by disconnection. New Linda's Law: Resident uses life-sustaining equipment powered by electricity.
New Mexico	<i>N.M. Admin. Code §§ 17.5.410.7, 17.5.410.43 (form).</i>	An illness or injury that results in a medical professional's determination that disconnection will give rise to a substantial risk of death or would gravely impair health.
New York	<i>16 N.Y. Comp. Codes R. & Regs. tit. 16, § 14.5.</i>	Medical emergency: Resident suffers from a serious illness or a medical condition that severely affects his well-being. If certification notes chronic condition, renewal period is 60 days or longer. If certification notes life-support system, certification remains effective until terminated by commission (consumer must still renew "inability to pay" forms quarterly).
North Carolina	<i>4 N.C. Admin. Code 11.R.12-10 (gas), R.12-11 (electric).</i>	Companies may, if they choose, delay termination if it would cause undue hardship or be especially dangerous to health, or where resident is elderly or has a disability.
North Dakota	<i>N.D. Admin. Code §§ 69-09-02-05.1 (electric), 69-09-01-18.1.1(gas).</i>	Dangerous health condition exists (includes life support), customer is 65 or older or has a disability.
Ohio	<i>Ohio Admin. Code 4901:1-18-06(C).</i>	Disconnection would be especially dangerous to health, or medical or life-support equipment would be impossible or impractical to operate.
Oklahoma	<i>Okla. Admin. Code §§ 165:35-21-10 (electric), 165:45-11-14 (gas).</i>	Life-threatening situation: resident dependent on life-sustaining equipment.
Oregon	<i>Or. Admin. R. 860-021-0410.</i>	Disconnection would significantly endanger the physical health of household member.
Pennsylvania	<i>52 Pa. Code § 56.2.</i>	Customer or household member is seriously ill/diagnosed with a medical condition which requires the continuation of service to treat the medical condition.
Rhode Island	<i>810 R.I. Code R. pts. 10-00-1.2, 10-00-1.4.</i>	"Seriously ill": actually or potentially "life-threatening or that will cause irreversible adverse consequences to human health" (10-00-1.2); "disabled": "physical or mental impairment... which substantially limits one or more of such person's major life activities."

APPENDIX A (cont.)

SERIOUS ILLNESS CRITERIA IN EACH OF THE 50 STATES AND D.C.

STATE	CITATION	DEFINITION
South Carolina	<i>S.C. Code Ann. Regs. 103-352 (electric), 103-452 (gas); S.C. Code Ann. §§ 58-5-1110, 58-5-1120, 58-27-2510, 58-27-2520 (“special needs” customers).</i>	No termination Dec. to Mar. if it “would be especially dangerous to such person’s health” (S.C. Code Ann. Regs. 103-352, 103-452). “Special needs customers” entitled to additional notice and payment arrangements prior to termination (S.C. Code Ann. §§ 58-5-1120, 58-27-2510).
South Dakota	<i>S.D. Admin. R. 20.10.20.11.</i>	Disconnection will aggravate an existing medical emergency.
Tennessee	<i>Tenn. Comp. R. & Regs 1220-04-05-.18 (gas), 1220-04-04-.19 (electric).</i>	Disconnection will aggravate an existing medical emergency.
Texas	<i>16 Tex. Admin. Code §§ 25.29(g) (electric service providers), 25.483(g) (retail electric service providers), 25.497 (“Chronic Condition” and “Critical Care” customers).</i>	Various levels of protection for “seriously ill” customers, “Chronic Condition Residential Customers,” and “Critical Care Residential Customers.”
Utah	<i>Utah Admin. Code r. 746-200-7(A) (3), (A)(4), (D)(1), (D)(2).</i>	Protected categories include “serious illness or infirmity” disconnection will “injure the person’s health or aggravate the person’s illness” ((A) (4)(c)(i) and those on “life support equipment”: “immediate assistance from medical personnel to sustain life would be required if the life supporting equipment ceased normal operations” ((A)(3)(b) (vi)).
Vermont	<i>Vt. Admin. Code 18-1-4:3.302.</i>	Resident would suffer immediate and serious health hazard by disconnection or failure to reconnect.
Virginia	<i>20 Va. Admin. Code §§ 5-330-20, 5-330-40.</i>	Serious medical condition: Physical or psychiatric condition that requires medical intervention to prevent further disability, loss of function, or death.
Washington	<i>Wash. Admin. Code 480-100-128 (electric), 480-90-128 (gas).</i>	Disconnection would aggravate an existing medical condition.
West Virginia	<i>W. Va. Code R. §§ 150-3-4.8.1.e.1 (electric), 150-4-4.8.1.e.1 (gas).</i>	Certified Health Condition: Disconnection would be dangerous to resident for medical reasons. If certified as permanent condition, does not need to be renewed.
Wisconsin	<i>Wis. Admin. Code PSC §§ 113.0301(13) (electric), 134.062(11) (gas).</i>	Disconnection will aggravate an existing medical or protective service emergency.
Wyoming	<i>023.0002.3 Wyo. Code R. § 9.</i>	Health and safety would seriously be endangered if service disconnected.

APPENDIX B

STATES THAT ALLOW PHONE CALL FOLLOWED BY WRITTEN CERTIFICATION

States that allow a phone call followed by written certification to stop termination of electric or gas utility for a household with a seriously ill person

STATE	CITATION	DESCRIPTION
Arkansas	<i>Ark. Admin. Code § 126.03.2-6.17(B).</i>	Initial phone or letter; written certification within 7 days.
Connecticut	<i>Conn. Agencies Regs. § 16-3-100(e).</i>	Initial notice can be by phone; written certification within 7 days.
Georgia	<i>Ga. Comp. R. & Regs. 515-3-2.03, 515-3.03.</i>	Initial notice can be oral or written from customer, followed by written certification within 10 days.
Massachusetts	<i>220 Mass. Code. Regs. § 25.03(2).</i>	Initial notice from listed medical professionals may be by phone; certification form must be returned to the utility within 7 days.
Minnesota	<i>Minn. Stat. § 216B.098 subdiv.5.</i>	Initial phone certification followed by written certification within 5 days.
Nebraska	<i>Neb. Rev. Stat, § 70-60691(g).</i>	Initial notice followed by written certificate within 5 days.
New York	<i>N.Y. Comp. Codes R. & Regs. tit. 16, § 11.5(a)(3).</i>	May be initiated by phone call followed by written certification within 5 business days.
Oregon	<i>Or. Admin. R. 860-021-0410.</i>	Initial certification may be oral if followed by written certification within 14 days.
Virginia	<i>20 Va. Admin. Code § 5-330-40 (electric).</i>	Customer can initiate protection by notifying utility, but written certification is provided within 10 days.
Washington	<i>Wash. Admin. Code 480-100-128 (electric), 480-90-128 (gas).</i>	Verbal notification of a medical emergency can stop a termination for 5 days so a written certification can be submitted.

APPENDIX C

STATES WITH SAMPLE PROMPT RECONNECTION PROTECTION RULES

STATE	CITATION	DESCRIPTION
Maine	<i>Me. Admin. Code 65-407 ch.815, § 11(D).</i>	Reconnection of service: When a utility is required to reconnect service under this section, the utility shall attempt to provide service on the day it receives the certification. In any case, service must be provided by 5:00 p.m. of the next day.
Pennsylvania	<i>52 Pa. Code § 56.115.</i>	When service is required to be restored under this section and §§ 56.114, 56.116 to-56.118, and 56.191, the public utility shall make a diligent effort to have service restored on the day of receipt of the medical certification. In any case, service shall be reconnected within 24 hours. Each public utility shall have employees available or on call to restore service in emergencies.
Rhode Island	<i>810 R.I. Code R. pts. 10-00-1.4(H),10-00-1.17(A).</i>	In those instances where a Protected Status Customer has his or her utility service terminated because he or she and/or the public utility are unaware of that individual's protected status, that individual's utility service shall be restored immediately (10-00-1.4(H)); Restoration of service by Commission Action: The Administrator of the Division of Public Utilities and Carriers has the emergency authority to order immediate restoration of service when necessary to protect the health, welfare, and safety of the residents (10-00- 1.17(A)).
Virginia	<i>20 Va. Admin. Code § 5-330-40(C).</i>	If customer was disconnected within preceding 14 days and serious illness certificate is provided, utility shall promptly reconnect and not require reconnection fees.

APPENDIX D

SAMPLE RENEWAL PROVISIONS OF STATE SERIOUS ILLNESS RULES

STATE	CITATION	DESCRIPTION
Connecticut	<i>Conn. Agencies Regs. § 16-3-100(e)(3)(B),</i>	Duration is as set forth in physician's certificate; 15 days if not specified. Renewals must be submitted by last day of protection; if none specified in renewal letter, renewals last 15 days; can be renewed indefinitely for life- threatening illnesses.
Massachusetts	<i>220 Mass. Code Regs. § 25.03(3).</i>	Certification renewed quarterly, unless chronic condition, then every 6 months.
Michigan	<i>Mich. Admin. Code rr. 460.130(5), (6) (serious illness), 460.130a(1), (2) (critical care customers).</i>	Non-critical serious illness: Initial protection of 21 days renewable twice per household member (i.e., up to 63 days per year); Critical care customers: Must be renewed annually; no limit on renewals.
Minnesota	<i>Minn. Stat. § 216B.098 subdiv.5(c)-(e).</i>	Initial certification can last 6 months; in discretion of utility, can be extended for up to 12 months.
Oregon	<i>Or. Admin. R. 860-021-0410(4).</i>	Notice to renew provided at least 15 days prior to certificate's end date (serious illness protection is valid for length of time on certificate, but up to 6 months for serious illness and 12 months for a chronic condition).

APPENDIX E

SAMPLE NOTICE PROVISIONS OF STATE SERIOUS ILLNESS PROTECTION NOTICE RULES

STATE	CITATION	NOTICE REQUIREMENTS
Arkansas	<i>Ark. Admin. Code</i> § 126.03.2-6.07(G).	Every shutoff notice shall include a statement that customer with serious medical condition, over 65, or with a disability may contact the utility about qualifying for delaying termination of service.
Connecticut	<i>Conn. Agencies Regs.</i> § 16-3-100(c), (e).	Every termination notice “shall plainly indicate that the utility company may not terminate residential utility service to the home of any customer during such time as any resident therein is seriously ill” (§ 16-3-100(e)). A summary of customer rights, including as to serious illness, must be provided when service initiated and annually thereafter (§ 16-3-100(c)).
Delaware	<i>26-3002 Del. Code Regs.</i> § 3.2.5.	Notice of termination must include notice of the protection that if any occupant is so ill that disconnection would adversely affect health or recovery, and this has been duly certified, termination is prohibited.
Georgia	<i>Ga. Comp. R. & Regs.</i> 515-3-2-.02(a)(4).	Written disconnection notices shall include the procedure for preventing disconnection where there is a medical emergency.
Idaho	<i>Idaho Admin. Code r.</i> 31.21.01.305.	Termination notice must include a statement that a certificate notifying the utility of a serious illness or medical emergency may delay termination.
Maine	<i>Me. Admin. Code</i> 65-407 ch. 815, § 10(J).	Disconnection notice must contain statement about customer’s right to postpone disconnection due to a medical emergency.
Massachusetts	<i>220 Mass. Code Regs.</i> § 25.03(5).	Collections notices must include description of serious illness protection.
Michigan	<i>Mich. Admin. Code r.</i> 460.140(2)(f).	Disconnection notice must contain information that the utility will postpone shutoff if there is a documented, certified medical emergency.
Nebraska	<i>Neb. Rev. Stat.</i> § 70-1606(1)(g).	Disconnection notices must include a statement that disconnections can be postponed or prevented with a physician’s certificate of an existing illness or disability.
New Mexico	<i>N.M. Admin. Code</i> § 17.5.410.42.	15-day disconnection notice shall include specific notice about medical certifications protections.
North Dakota	<i>N.D. Admin. Code</i> § 69-09-02-05.1 (electric).	Disconnection notice includes notice that customer can delay termination for up to 30 days if there is a “dangerous health condition,” or resident 65 or older or with a disability.

APPENDIX E (cont.)

SAMPLE NOTICE PROVISIONS OF STATE SERIOUS ILLNESS PROTECTION NOTICE RULES

STATE	CITATION	NOTICE REQUIREMENTS
Ohio	<i>Ohio Admin. Code 4901:1-18-06(A)(5)(h).</i>	Disconnection notice includes information that medical certification program and forms are available from utility where disconnections would be especially dangerous to health.
Pennsylvania	<i>52 Pa. Code §§ 56.91(b)(8), 56.93(b), 56.94(1), 56.96, 56.97.</i>	Disconnection notice must include medical certificate notice (§ 56.91(b)(8)). Required personal contact before disconnection shall include information on emergency medical procedures (§ 56.93(b)). At time of effectuating termination, if evidence of serious illness or medical condition, termination may not occur (§ 56.94(1)). Immediately post-termination, medical emergency notice shall be conspicuously posted or delivered to a responsible adult/occupant (§ 56.96)). If customer contacts utility after issuance of initial termination notice and before the actual termination, the utility shall fully explain the medical emergency procedures (§ 56.97)).
Wyoming	<i>023.0002.3 Wyo. Code R. § 9.</i>	Disconnection notice must include explicit information about the serious illness protection.

APPENDIX F

REQUIREMENTS FOR DOCUMENTATION OF SERIOUS ILLNESS AND SAMPLE FORMS*

Following are sample forms of states that have effective language to document serious illness.

Arkansas

Ark. Admin. Code § 126.03.2-6.17(D).

D. Physician's Certificate

A completed physician's certificate must be signed by a physician and must be in the following form. The utility shall provide a copy of the physician's certificate form to the physician.

PHYSICIAN'S CERTIFICATE OF MEDICAL NEED FOR UTILITY SERVICE

The Arkansas Public Service Commission requires utilities under its jurisdiction to honor physician's certificates which attest to the fact that a utility customer or any permanent resident of the household has a serious medical condition. The certificate must clearly state that the suspension of utility service would give rise to a substantial risk of death or gravely impair the health of the customer or another permanent household resident.

A licensed physician or other health care professional providing health care services to the patient may notify the utility of the serious medical condition. The notice must be followed within 7 days by a certificate. The certificate is valid for up to 30 days and may be extended for one additional 30 day period by reverification by the physician or health care professional prior to the expiration date of the first certificate. This reverification requires that an additional certificate be submitted to the utility.

You are being asked to verify that the stated condition exists. This certificate allows the utility customer time to secure payment for utility service or to make alternate arrangements for care of the patient.

Thank you for your cooperation.

* These forms are the most recent available. For updates, please consult the utility company or state utility commission

APPENDIX F (cont.)

**REQUIREMENTS FOR DOCUMENTATION OF
SERIOUS ILLNESS AND SAMPLE FORMS**

To: _____ Date _____
(Name of Utility)

I certify that loss of utility service would give rise to a substantial risk of death or gravely impair the health of who lives at

_____.

The nature of the serious medical condition is

_____.

The effect of loss of utility service would be

_____.

This condition is expected to continue _____ days.

I am licensed to practice medicine by the Arkansas State Medical Board or a comparable licensing authority in the State of _____.

Physician _____

Address _____

Phone number _____

APPENDIX F (cont.)

REQUIREMENTS FOR DOCUMENTATION OF SERIOUS ILLNESS AND SAMPLE FORMS

Idaho

Idaho Admin Code r. 31.21.01.308.01.

The certificate must contain the following information:

- a. A statement that the customer, a member of the customer's family, or other permanent resident of the premises where service is rendered is seriously ill or has a medical emergency or will become seriously ill or have a medical emergency because of termination of service, and that termination of utility service would adversely affect the health of that customer, member of the customer's family, or resident of the household.
- b. The name of the person whose serious illness or medical emergency would be adversely affected by termination and the relationship to the customer, and
- c. The name, title, and signature of the person certifying the serious illness or medical emergency.

Illinois

Ill. Admin. Code tit. 83, § 280.160(d).

d) Certificate Content:

- 1) Name and contact information for the certifying party;
- 2) Service address and name of patient;
- 3) A statement that the patient resides at the premises in question; and
- 4) A statement that the disconnection of utility service will aggravate an existing medical emergency or create a medical emergency for the patient.

Maine

Me. Admin. Code 65-407 ch.815, §11(C).

The utility may require that a written certification include the following if the utility provides a form for the physician to complete:

1. The name and service location of the customer (to be provided by the utility).
2. The name and address of the person with the medical emergency.

APPENDIX F (cont.)

REQUIREMENTS FOR DOCUMENTATION OF SERIOUS ILLNESS AND SAMPLE FORMS

3. A statement that a serious illness or medical condition exists which would be seriously aggravated by lack of utility service.
4. The anticipated length of the medical emergency.
5. The specific reason why continued service is required.
6. The name, office address, telephone number and signature of the certifying physician.

Massachusetts

220 Mass. Code Regs. § 25.03(2)(a).

Said certificate shall state the name and address of the seriously ill person, the nature of the illness and the business address and telephone number of the certifying physician, physician assistant, nurse practitioner or local board of health;

Sample template for Serious Illness letter
(no official form required to document illness):

To Whom It May Concern:

[Name of patient] who resides at [address] is a patient of mine [or: is under my care].

[Name of patient] is being treated for [describe illness or condition], a serious illness.

Sincerely,

[Health professional's name and contact information]

Sample template for Serious Chronic Illness letter
(no official form required to document illness):

To Whom It May Concern:

[Name of patient] who resides at [address] is a patient of mine [or: is under my care].

[Name of patient] is being treated for [describe illness or condition], a chronic illness.

Sincerely,

[Health professional's name and contact information]

APPENDIX F *(cont.)*

REQUIREMENTS FOR DOCUMENTATION OF SERIOUS ILLNESS AND SAMPLE FORMS

Montana

Mont. Admin. R. 38.5.1411.

All certifications must be in writing and provide the name and address of the person with the medical condition that would be aggravated by a termination of service. The certification must include the printed name, signature, office address, and telephone number of the certifying licensed health care professional.

Ohio

Ohio Admin. Code 4901:1-18-06(C)(3)(b).

(b) The certification of the medical condition or the need for the medical or life-supporting equipment required by paragraph (C)(1) of this rule shall be in writing and shall include the name of the person to be certified; a statement that the person is a permanent resident of the premises in question; the name, business address, and telephone number of the certifying party; a statement of the need for the medical or life-supporting equipment, if applicable; and a signed statement by the certifying party that disconnection of service will be especially dangerous to the health of a permanent resident of the premises.

PUCO Sample form (see next page).

APPENDIX F (cont.)

REQUIREMENTS FOR DOCUMENTATION OF SERIOUS ILLNESS AND SAMPLE FORMS

30-Day Medical Certification

(Name of Utility Company)

Instructions:

The following is to be completed by a licensed medical professional and only after you, or someone in your office, has examined the individual whose name appears as the patient on the form below. This form applies only in situations where, in your professional opinion, termination of (gas/electric/water) utility service would be especially dangerous to the health of that individual. If, in your professional opinion an especially dangerous situation does not exist, please do not sign this form.

If you have any questions regarding this form, please contact: (utility company name and phone number). You may fax the completed form to us at (fax number).

I certify that, to the best of my knowledge, the information provided below is true.

The following medical information must be certified by one of the following. Please indicate if you are a:

- | | | | |
|--------------------------|---------------------------|--------------------------|---------------------------------|
| <input type="checkbox"/> | licensed physician | <input type="checkbox"/> | physician assistant |
| <input type="checkbox"/> | clinical nurse specialist | <input type="checkbox"/> | certified nurse practitioner |
| <input type="checkbox"/> | certified nurse-midwife | <input type="checkbox"/> | local board of health physician |

Please complete the following. Please print.

I certify that my patient has been examined by me and I have determined the following to be true:

Name of patient: _____

Patient's permanent residence: (street address) _____

(city, state, zip code) _____

Check the box of the applicable condition:

- This patient suffers from a hazardous medical condition and termination of (gas/electric/water) utility service would be especially dangerous or life-threatening.**
- This patient uses medical or life-supporting equipment and termination of (gas/electric/water) utility service would make operation of that equipment impossible or impractical.**

I certify that I advised my patient that disclosure of the requested information may be subject to redisclosure by the recipient and no longer be protected by the HIPAA rules and regulations.

Authorized Signature _____

Date _____

(Please Print)

Name of Licensed Medical Professional _____

Business Address _____

Business Telephone _____

Current State License or Certificate Number: _____

All sections must be fully completed in order to process the medical certification request.



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