

Out in the Cold

NYC Does Not Get Its Fair Share of
Heating Assistance

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Executive Summary

Every year, the federal government provides New York State with close to a quarter of a billion dollars to help low-income households pay their heating costs through the Home Energy Assistance Program (HEAP). Each state decides how to distribute the money among low-income households. New York State's benefit structure favors eligible homeowners who pay for heat directly – mostly non-city residents – over eligible renters and apartment owners who pay for heat as a part of rent or maintenance—mostly city residents.

This disparity is based on the fact that the state benefit for those who pay directly for heat *starts* at \$150 *regardless of how much they pay for heat*. The benefit for those who pay for heat indirectly through rent or maintenance is *capped* at \$50 *no matter how much they pay for heat*. This distribution of benefits is based on the inaccurate assumption that homeowners spend more on heating costs than renters and apartment owners.¹ Yet city and state figures show that the average apartment in New York City cost roughly the same amount to heat as the average New York State home—\$648 versus \$651 in 2001—demonstrating that the benefit structure is unfair. Other states also reimburse homeowners more than apartment-dwellers, but no state sampled by this office has a funding formula that is as inequitable as New York's.

As a result of this benefit structure, New York City residents receive only 18 percent of HEAP funds even though New York City is home to 62 percent of the low-income population.

FINDINGS

- ❖ **Most New York City HEAP recipients receive only one-third of the minimum award generally given to the rest of the state** Households that pay directly for heat, regardless of how much they pay, receive *at least* three times the *maximum* award available to those that pay indirectly—including those with a much larger heating burden in comparison to their income. Consequently, recipients in the five boroughs receive less than those in the rest of the state. The average city beneficiary receives \$85 while the average beneficiary in the rest of the state receives \$524.
- ❖ **New York City as a whole doesn't receive its fair share of HEAP funds.** Even though New York City is home to 62 percent of New York's low-income population, the city receives only about 18 percent of heating assistance funding.
- ❖ **New York State's Office of Temporary & Disability Assistance's (OTDA) current benefit structure is based on the following false assumptions:**
 - **Assumption:** Households that pay for heat directly spend more than those who pay for heat indirectly.

¹ Eligible co-op and condo owners are affected by the distinction, but the great majority of those that don't pay for heat directly are renters. Therefore, this report will focus mainly on the renting population.

- **Fact:** Average heating costs are actually the same for both types of households. This is because a significant percentage of eligible households in New York City live in older rental units that are not heated or insulated as efficiently as newer homes.
 - **Assumption:** Heating costs for those that pay indirectly are lower because landlords do not pass along that cost to tenants.
 - **Fact:** While landlords may not be able to pass along short term fluctuations in their heating costs because of lease agreements, the long term heating expense is worked into the rent.
 - **Assumption:** Households that pay for heat indirectly do not have direct heating costs.
 - **Fact:** This does not take into account the likelihood that these households need to supplement their heat when landlords fail to provide it adequately which increases their overall energy expenses. This is the case for over 15 percent of New York City renters.
- ❖ **Crisis benefit criteria unfairly favor homeowners and exclude most renters.** An additional ‘crisis’ benefit is only available to those households that pay directly for heat even though households that pay indirectly face heating crises too. This is a further inequality in the way the two groups are treated.
- ❖ **Other states treat apartment-dwellers more fairly than New York.** Other states including Illinois, Massachusetts, and New Jersey fund the heat needs of these households much more equitably than New York State.

RECOMMENDATIONS

- ❖ **OTDA should raise the minimum benefit for households that pay for heat as a portion of rent or maintenance.** The state should increase this benefit from \$50 to at least \$150 to match the minimum homeowner benefit because relative heating costs of the two groups are at least equal.
- ❖ **OTDA should make crisis benefits available to households that pay indirectly for heat.** Renters should have access to the same benefits as owners if they need to supplement their heat with space heaters and similar devices or need to seek temporary shelter when their heating system breaks down.
- ❖ **OTDA should focus more weatherization assistance funds on New York City.** A more effective long-term solution to lowering the heating costs of low-income New Yorkers would be to make heating systems more efficient and weatherize buildings. By accepting this assistance on behalf of low-income tenants, landlords agree not to raise rents for a certain term except to cover the cost of other tax and

maintenance increases. Currently, \$20.9 million is allocated to New York City for weatherization assistance to low-income families. This constitutes roughly 47 percent of total state funding for the weatherization program.² More HEAP funds should be allocated to New York City for this program in order to compensate for the current inequities of the state's heating assistance plan. Enforcement of weatherization contracts is crucial, however, in order to ensure that landlords do not exclude low-income tenants once services have been rendered.

² Office of Temporary and Disability Assistance, *Weatherization Assistance Program, 2003 State Plan*. These funds are partly HEAP funds and partly Department of Energy funds.

PROLOGUE: A TALE OF TWO FAMILIES

John and Jane X.³ live in their new home in a quiet, middle-class Albany suburb with their two children, aged 3 and 6. Their annual household income is \$39,000. They pay \$630 per year to heat their well-insulated new home. John and Jane apply for heating assistance and find that they are eligible for \$200 per year in heating benefits through a federal program – the Home Energy Assistance Program (HEAP) – administered by their local government.

Lisa Z. is a single mother of two children aged 3 and 6 living in an apartment in the South Bronx. She earns \$12,000 annually. While she doesn't pay for heat directly, the \$630 her landlord pays to heat the pre-war walkup apartment is passed along to her as an unspecified portion of her rent. Lisa also applies for heating assistance, but she finds that she is only eligible for \$50 annually.

Why is it that Lisa and her children receive only a quarter of the benefit that John and Jane receive despite the fact that Lisa makes far less and pays the same heating costs? Why is this assistance program, which was created to help low-income families to pay for heat, awarding a much larger benefit to a middle-income household?

This report addresses these questions and suggests how New York State can modify the benefit structure of the HEAP program to better serve the targeted community: low-income households.

INTRODUCTION

Every year the State of New York receives roughly a quarter of a billion dollars from the federal government to provide heating assistance to vulnerable, low-income populations. The Home Energy Assistance Program (HEAP) grant is distributed by each state based on a plan submitted to and approved by the federal Department of Health and Human Services.

In New York, the state's Office of Temporary & Disability Assistance (OTDA) oversees the program and the local departments of social services provide administration. The Human Resources Administration (HRA) is the office charged with administration in New York City.

This report finds that the New York State plan underfunds most low-income renters in the five boroughs even though their heating costs tend to be the same as homeowners because the older structures that renters tend to live in are less efficient to heat. According to the New York City Rent Guidelines Board, the average monthly heating cost per unit in city rent-stabilized dwellings in 2001 was \$54,⁴ which is an annual cost of

³ The cases described here are hypothetical. They are used as examples of how the eligibility and benefit criteria for the HEAP program direct funds away from renters and toward homeowners.

⁴ New York City Rent Guidelines Board, *Housing NYC: Rents, Markets and Trends 2003*, p.29, reference to New York City Department of Finance, 2001 Real Property Income and Expense filings.

\$648. According to the U.S. Department of Energy, the average New York State household paid \$651 for heat in 2001.⁵ Also, New York City as a whole is short-changed because the city is home to a much larger share of the state's low-income and vulnerable population but receives only a small percentage of the HEAP funding available to New York State.

NEW YORK STATE HEAP PLAN

The state plan for distributing the federal HEAP grant denies New York City residents their fair share of funding. This anti-city nature of the plan is demonstrated by the decision to provide a much smaller benefit to households that pay for heat as a part of their rent or maintenance than to households that own their homes. Consequently, even though New York City is home to a larger proportion of eligible people, the rest of New York State receives the vast majority of the available funding.

New York's plan outlines spending in four categories: heating assistance, crisis benefits, weatherization, and administration. The plan divides the beneficiary population into 'heater' and 'non-heater' households. Heaters, or homeowners, pay directly for heat. Non-heaters, who are mainly renters, also pay for heat but do so as an unspecified amount that is included in their rent.

This program is not designed as an entitlement, and the federally disbursed funds are spent by the state on a 'first come, first served' basis until those funds are exhausted or until the heating season ends. New York's official heating season runs from November 3, 2003 to March 31, 2004, but it can be extended by the state if necessary⁶.

Benefits and Eligibility

The annual benefit available to households that pay directly for heat, or '**heaters**', is determined by way of a point system that awards points based on: income, the presence of a member of a vulnerable population (i.e. an elderly individual over age 60, disabled individual, or a child under age six), and the household's heating costs relative to its income. Depending on the number of points, each eligible household can qualify for a regular grant of between \$150 and \$400 for the heating season. Additionally, these households may be eligible for crisis benefits that can far exceed the regular benefit level.

Points are assigned by this system as follows⁷:

- Under the income guidelines, households are assigned one or two points – two points for Tier I households with a gross monthly income below 130 percent of

⁵ Energy Information Administration, *2001 Residential Energy Consumption Survey: Household and Expenditure Tables*, Table CE2-7e.

⁶ The crisis component officially closes on March 15, 2004.

⁷ New York State Office of Temporary & Disability Assistance, *Low Income Home Energy Assistance Program (LIHEAP) Detailed Model Plan, Fiscal Year 2004*, Attachment I, p. 4. Accessed at http://www.otda.state.ny.us/otda/heap/2004_STATE_PLAN-Attachment1.pdf on 1/15/04

the Federal poverty level (\$23,920 for a family of four); one point for Tier II households with a gross monthly income greater than the Tier I ceiling but below 60 percent of the State Median Income (\$39,899 for a family of four)⁸.

- One point is assigned for households with member(s) of a vulnerable population.
- Two, three, or five points are assigned depending on how much of a household’s income is spent on energy costs – two points if the energy burden is below 8.5 percent of income; three points if between 8.5 percent and 15.5 percent; five points if more than 15.5 percent.

Each point under this plan is worth \$50 in annual benefits. Thus, the minimum an eligible heater household will receive is \$150 for three points—one for being Tier II and two for an energy burden below 8.5 percent. The maximum is \$400 for eight points—two points for being a Tier I household, one for having a vulnerable member, and five for spending more than 15.5 percent of income on energy costs.

For households that pay for heat as a portion of rent or maintenance, or ‘non-heaters’, the benefit available is just \$40 or \$50 per heating season, depending on income tier. The \$50 benefit goes to households with income less than 130 percent of poverty level; \$40 is awarded to those with income higher than 130 percent of poverty level but less than 60 percent of the state’s median income.

This benefit structure explains the difference in awards to the hypothetical families described above. Because John and Jane pay for their heat directly, they receive the heater benefit. This benefit is based on the following: they are assigned one point for being a Tier II household, one point for having a vulnerable member (i.e. their kids), and one point for their energy burden which is 1.6 percent. Lisa and her kids receive the non-heater benefit of \$50 despite the fact that, if she paid for heat directly, she would have received \$250 for being Tier I with a vulnerable member and an energy burden of 5.3 percent.

Eligibility Criteria	John and Jane X.		Lisa Z.	
	Eligibility Determination		Eligibility Determination	
Income	\$39,000	\$50	\$12,000	\$50
Vulnerable Members	Yes	\$50	Yes	n/a
Energy Burden	1.6%	\$100	5.3%	n/a
Total Benefit:	\$200		\$50	

⁸ New York State Office of Temporary & Disability Assistance, *Low Income Home Energy Assistance Program (LIHEAP) Detailed Model Plan, Fiscal Year 2004*, Attachment III, p. 1.

Crisis Component

Besides receiving a much smaller regular benefit, non-heaters are excluded from receiving crisis benefits, which make up 18 percent of the state's HEAP allocation.⁹ About 97 percent of city residents receiving HEAP benefits are not eligible for crisis benefits because they receive non-heater benefits.¹⁰

Households that have heat included in rent are not immune from heating crises. A recent New York Times article chronicles how some of the five boroughs' most vulnerable went without heat this winter. They were left cold because of delinquent landlords and ineffective enforcement of the housing code by the New York City Department of Housing Preservation and Development (HPD).¹¹

This crisis benefit is only available to:

- Eligible heater households that are in jeopardy of running out of heating fuel or of having their heat shut off;
- Heaters whose essential heating equipment is inoperable; or
- Heaters determined by HRA to be in a heating situation that is detrimental to the health and safety of household members.

This crisis benefit can be substantial, ranging from a base benefit of \$100 to a \$2,500 benefit for the replacement or repair of a heating system. The benefit structure is based on the type of crisis and the type of heating fuel used. But in all cases, this benefit is available only to heater households and primarily used for capital improvements.

NEW YORK CITY SHORTCHANGED

New York City's portion of state HEAP funding does not reflect its high proportion of low-income households and vulnerable individuals. About \$167.8 million of the 2002-03 federal grant was designated by the state plan for heating assistance and crisis benefits.¹² In FY 2003, New York City received just \$31.3 million in HEAP revenue from the state, or roughly 18 percent of the amount available.¹³

⁹ New York State Office of Temporary & Disability Assistance, *Low Income Home Energy Assistance Program (LIHEAP) Detailed Model Plan, Fiscal Year 2004*, p.10. Accessed at: http://www.otda.state.ny.us/otda/heap/2004_STATE_PLAN.pdf on 1/15/04

¹⁰ Correspondence with Delantheyia Evans, HEAP program staff, 10/27/03.

¹¹ Andrea Elliot, *The Art of Surviving When It's Cold*, New York Times, January 11, 2004, Sec. 1.

¹² The state plan calls for 56.92 percent to be used for regular heating benefits and 18 percent for crisis assistance (State Plan, p.10). The total grant, according to the National Center for Appropriate Technology, an office within the federal Administration for Children and Families, was \$233,739,522. Accessed at: <http://www.ncat.org/liheap/Funding/03reg03.xls>, 1/15/04.

¹³ Comptroller for the City of New York, *Comprehensive Annual Financial Report of the Comptroller, Fiscal Year 2003*, October 2003, p.149.

In every category, not only does New York City have a larger proportion than 18 percent of the state’s vulnerable populations, but by every measure it has a *majority* – between 58 percent and 72 percent – of those populations, as noted in Table 1 below.

Table 1: Low Income, Vulnerable Population: NYC vs. Rest of State, 2000

	New York State Total	NYC	Rest of State	NYC vulnerable population as % of State Total
Individuals below poverty level	2,692,202	1,668,938	1,023,264	62%
Families below poverty level with children under the age of 5 ¹⁴	198,252	122,601	75,651	62%
Households below poverty level with at least one person over 65 ¹⁵	64,201	44,335	19,866	69%
Families below poverty level receiving PA or SSI	183,265	132,297	50,968	72%
Household receiving SSI ¹⁶	390,779	225,304	165,475	58%
Disabled individuals below poverty level (non-institutionalized) ¹⁷	741,068	465,699	275,369	63%

This table shows that in 2000:

- Of the 2,692,202 New York State individuals below poverty level, 62 percent live in New York City;
- Of the 198,252 New York State families below poverty level with children under the age of five¹⁸, 62 percent live in New York City;
- Of the 64,201 New York State households below poverty level with at least one person older than 65¹⁹, 69 percent are in New York City²⁰;

¹⁴ U.S. Census Bureau; 2000 Census of Population and Housing, Summary Tape File 3, P90.

¹⁵ U.S. Census Bureau; 2000 Census of Population and Housing, Summary Tape File 3, P89.

¹⁶ U.S. Census Bureau; 2000 Census of Population and Housing, Summary Tape File 3, P63.

¹⁷ U.S. Census Bureau; 2000 Census of Population and Housing, Summary Tape File 3, P63.

¹⁸ Census data delineates age data by households with children under five. The ‘vulnerable’ population for this program includes families with children under the age of six. While 122,601 slightly *underestimates* the number of potentially eligible households in New York City, the proportion between New York City and the rest of the state should be roughly consistent for households with children under the age of six.

¹⁹ Census figures only delineates age data at 65. As noted above, the program is more inclusive (i.e. over age 60 qualifies as ‘vulnerable’), and therefore the figures mentioned within the text slightly underestimate the potentially eligible households in this category. However, the proportion of these households in New York City and the rest of the state remain roughly consistent with these figures.

- Of the 183,265 New York State families below poverty level that were receiving either SSI or PA, 72 percent live in New York City;
- Of the 390,779 New York State households receiving SSI, 58 percent live in New York City; and
- Of the 741,068 New York State non-institutionalized individuals with disabilities below poverty level, 63 percent live in New York City

While about 270,000 of the City’s lowest income households are not eligible for HEAP because they live in housing provided by the New York City Housing Authority or receive Section 8 housing vouchers, the vast majority of low income New York households who meet program guidelines are HEAP eligible.²¹

Why then, if New York City has a larger portion of the targeted population²², does it receive such a small portion of the state funding? The Public Advocate’s finds that both the state plan’s anti-renter nature as well as HRA’s failure to reach out effectively to the eligible population brings about this inequity. The former problem is addressed in this report while the latter is addressed in a report released previously by by the Office of the Public Advocate, *The Cold Shoulder: NYC’s Poor Get Short-Changed on Heating Assistance*.

Ninety-seven percent of the roughly 370,000 households in New York City that receive HEAP benefits receive the substantially lower, non-heater benefit.²³ Table 2 below shows the distribution of benefits between New York City and the rest of the state and the average benefit per household.

Table 2: Average Benefit per Household: NYC vs. Rest of State 2002-2003

	NYC	Rest of State	New York State Total
Recipient Population	370,000	265,000	635,000 ²⁴
Aggregate Benefit received	\$31,269,326	\$136,535,316	\$167,804,642
Avg. Benefit per Household	\$85	\$524	\$264

²⁰ Not included in this figure are situations where unrelated individuals live together. These households were excluded because including them would incorporate nursing home and other congregate care populations that are not eligible for HEAP.

²¹ 181,000 households live in New York City Housing Authority projects; 87,448 households are subsidized by Section 8 vouchers (NYCHA Fact Sheet accessed at: <http://www.ci.nyc.ny.us/html/nycha/html/factsheet.html> on 2/4/04)

²² The proportion of the vulnerable population that is in New York City versus the rest of the state will likely not change significantly at marginally higher income levels.

²³ Correspondence with Delantheyia Evans, HEAP program staff, 10/27/03.

²⁴ U.S. Department of Health and Human Services estimate. Accessed at: <http://neaap.ncat.org/programs/lowincome/ny-li.htm>, 10/27/03

This table shows that in the 2002-2003 heating season:

- The average benefit households outside of New York City receive is more than five times greater than the average benefit received by New York City households.
- The amount received by non-city residents also exceeds the maximum regular benefit available of \$400. This reflects the crisis benefits heater households also receive.

NEW YORK STATE PLAN FAVORS OWNERS OVER RENTERS

While the state plan claims that renters and owners are treated equally²⁵, the treatment of heaters and non-heaters is a *de facto* distinction between renters and owners²⁶. This in turn is a distinction between how New York City – which has 64 percent of the state’s rental units and whose housing stock consists of roughly 70 percent rental units – and the rest of state are treated under the plan. These numbers are summarized in Table 3 below.

Table 3: Renter- and Owner-Occupied Units: NYC and Rest of State²⁷

	NYC	Rest of State	NYC as % of Total NYS Units
Total	3,021,588	4,035,272	43%
Owner-occupied units	912,133	2,827,114	24%
Renter-occupied units	2,109,455	1,208,158	64%
% Renter-occupied	70%	30%	

Because low-income individuals tend to make up a larger portion of the renting population, as detailed below, the heater/non-heater distinction has a particularly negative effect on the intended beneficiary population. In New York City, households below poverty level make up an even larger portion of renters than in the rest of the state.

- In New York City 536,597 households below the poverty level are renters and 64,586 are owners—roughly an eight-to-one ratio.²⁸

²⁵ The federal government’s format for the plan requires state agencies to answer a series of questions including, “Is there any difference in the way owners and renters are treated?” The ‘no’ box is checked in the New York State plan. New York State Office of Temporary & Disability Assistance, *Low Income Home Energy Assistance Program (LIHEAP) Detailed Model Plan, Fiscal Year 2004*, p.32. Accessed at: http://www.otda.state.ny.us/otda/heap/2004_STATE_PLAN.pdf on 1/15/04.

²⁶ Co-op and condo owners, as mentioned before, also tend to be among the ranks of non-heaters since they typically pay for heat as a part of their maintenance fees. New York City is home to most of the state’s co-op and condo owners as well as renters, so the anti-city nature is merely amplified when this group is included. However, because the vast majority of New York City’s low-income population rents, this report focuses on that subset of non-heaters.

²⁷ U.S. Census Bureau; 2000 Census of Population and Housing, Summary Tape File 3, HCT25.

- In the rest of the state, 270,228 households below the poverty level are renters and 118,200 are owners—roughly a two-to-one ratio.²⁹

The state plan provides the following explanation for the heater/non-heater distinction: “In order to target assistance to those households with the highest home energy burden, NYS has opted to develop a benefit structure that directs the higher benefits to ‘heater’ households.”³⁰

This state explanation fails on two counts. First, it is contradicted by the plan itself, which gives all heaters a baseline benefit *three times as large* as the non-heater benefit *regardless of energy burden*. Second, no evidence is given in the plan stating that non-heater households have a lower energy burden than heater households.

In the absence of such evidence, this assumption does not hold up. It is illogical to assume that landlords do not include the cost of heating a unit when calculating the rent they charge.

NYC Renters Pay the State Average for Heat

According to the New York City Rent Guidelines Board, the average monthly heating cost per unit in city rent-stabilized dwellings in 2001 was \$54,³¹ which is an annual cost of \$648. According to the U.S. Department of Energy, the average New York State household paid \$651 for heat in 2001.³² This comparison shows that the cost of heating a city apartment is roughly the same as the state average heating cost per household, indicating that the cost of heating an owned home is not substantially different from the cost of heating a New York City rented apartment and refuting the claim that non-heaters have less of an energy burden than heaters.

How is it that New York City heating costs for renters are roughly equivalent to heating costs in the state as a whole when most New York City residents live in apartments and most non-City residents live in homes?³³

- Even though single-family detached houses tend to be larger, New York City units tend to be older and harder to heat.

²⁸ U.S. Census Bureau; 2000 Census of Population and Housing, Summary Tape File 3, HCT25.

²⁹ U.S. Census Bureau; 2000 Census of Population and Housing, Summary Tape File 3, HCT25.

³⁰ New York State Office of Temporary & Disability Assistance, *Low Income Home Energy Assistance Program (LIHEAP) Detailed Model Plan, Fiscal Year 2004*, Attachment I, p. 2. Accessed at http://www.otda.state.ny.us/otda/heap/2004_STATE_PLAN-Attachment1.pdf on 1/15/04.

³¹ New York City Rent Guidelines Board, *Housing NYC: Rents, Markets and Trends 2003*, p.29, reference to New York City Department of Finance, 2001 Real Property Income and Expense filings.

³² Energy Information Administration, *2001 Residential Energy Consumption Survey: Household and Expenditure Tables*, Table CE2-7e.

³³ 65 percent of non-New York City residents live in single-family detached homes versus 10 percent in New York City. Source: U.S. Census Bureau; 2000 Census of Population and Housing, Summary Tape File 3, H30.

- Fifty-one percent of New York City units were built before 1949. In contrast only 37 percent of units in the rest of the state are as old.³⁴
- Pre-1949 units, according to the U.S. Department of Energy, cost 31 percent more to heat than units built in the 1950s and 65 percent more than units built since 1990.³⁵
- This higher cost per square foot is mainly due to less effective building envelopes (i.e. insulation, window hangings, roofs, etc.) and the inability of older boilers to distribute heat evenly and efficiently to all apartments.

In light of these facts, it is not surprising that city households, despite the fact that they tend to live in smaller spaces, pay an equivalent amount in heating costs.

Heating Costs Are Passed Along

In addition, it is unclear why the state chose to ignore the economic principle that the price of a good—in this case, shelter—is the cost of the inputs plus a return on investment. When heat is included in rent—an input—rent is higher than it would be otherwise. In the long run, landlords pass the cost along to the tenants as part of their rent. This economic principle is acknowledged in the legislation that created the Rent Guidelines Board, which states that, when considering allowable rent increases, the board should consider “gross operating maintenance costs (including insurance rates, governmental fees, **cost of fuel** and labor costs).”³⁶ [emphasis added]

It is true, that non-heaters are less exposed to short-term fluctuations in the cost of heating fuel because they don’t pay monthly heating bills and their rents are adjusted annually. This fluctuation benefits non-heaters in years in which consumption and/or cost of fuel goes up. Alternatively, this fluctuation benefits landlords in years in which consumption and/or cost of fuel goes down. Over a timeframe of several years the average cost of heat is passed along to tenants.

Renters Face Heating Crises Too

An additional explanation for the distinction in benefits between heater and non-heater households was provided to the Public Advocate’s office by a HEAP director from another state. According to that director, the law is intended to ensure that low-income, vulnerable populations do not get their heat shut off during winter months. The state

³⁴ U.S. Census Bureau; 2000 Census of Population and Housing, Summary Tape File 3, H34.

³⁵ Energy Information Administration, *2001 Residential Energy Consumption Survey: Household and Expenditure Tables*, Table CE2-2e.

³⁶ Unconsolidated Laws of the State of New York, Sec. 4.b.1.ii of Chapter 576 of 1974, the Emergency Tenant Protection Act of 1974.

assumes that non-heater households are not in such danger because landlords must, by law and by contract, provide heat.

However, a renter's heat is not always adequately provided by landlords. Over 15 percent of renter-occupied units in New York City require additional heating like space heaters, according to the HPD 1999 Housing Vacancy Survey. This remarkably inefficient method of heating can drive up electric bills and thus add an out-of-pocket heating cost to a low-income family's existing, included-in-rent, heating cost.

The 2003 Mayor's Management Report shows that the Department of Housing Preservation and Development (HPD) received 104,900 heat and hot water complaints and issued 14,400 heat and hot water violations in 2003.

As noted in a recent study published jointly by the Association for Neighborhood and Housing Development and the Office of the Public Advocate, *Inequitable Enforcement*, housing maintenance code deficiencies like inadequate heat are most prevalent in community districts with large low-income populations – the population targeted by the HEAP program.³⁷

According to a recent New York Sun article, the Department of Housing Preservation and Development's (HPD) received 6,023 calls on January 16, 2004, the record for complaints in a single day.

The following example further demonstrates how the state plan penalizes New York City residents:

Assuming a single mother working 35 hours a week earns minimum wage, her gross annual income is about \$9,012³⁸. If she pays \$648 as the portion of her rent that is allocated for heat, her energy burden is 6% of her income. If she were to pay for heat directly, she would qualify for \$250 in regular benefits³⁹ to help pay that cost; however, because she pays for heat as part of her rent, she receives only \$50.

If the same working mother did not have adequate heat for her apartment, she could turn only to her landlord or to HPD for relief. In the meantime, she could use an electric space heater or other means to offset the cold. If she were a heater and paid for heat directly, she could be eligible for at least an extra \$175⁴⁰ in crisis benefits. As a non-heater, she is left out in the cold.

NEW YORK CITY PLAN IS WORSE FOR RENTERS THAN OTHER STATE PLANS

³⁷ ANHD, Inc. and the Office of the Public Advocate for the City of New York, *Inequitable Enforcement: The Crisis of Housing Code Enforcement in New York City*, September 2003, p.9.

³⁸ Based on the calculation: 35 hours x \$5.15 x 50 weeks

³⁹ Based on the calculation: 2 points for income + 1 point for child under 6 + 2 points for energy burden = 5 points x \$50 = \$250

⁴⁰ Based on the calculation: \$100 base emergency benefit + \$25 Tier I + \$50 vulnerable household member. In some cases, she might be eligible for up to \$2,500 for a boiler replacement.

Each state plan studied by the Office of the Public Advocate treats renters much more favorably in relation to homeowners than New York State.

New York is not alone in treating heaters and non-heaters separately. Other states with large city-dwelling, renting populations also make the heater/non-heater distinction between owners and renters. The Office of the Public Advocate discussed the heating assistance programs with several state directors. Each of the states has cold winters and one or more large cities with large renting populations. These conversations yielded the the following findings:

- *Massachusetts*: While the rules regarding heaters and non-heaters are different, it is still possible for non-heaters to receive the same maximum benefit as heaters—\$460.⁴¹
- *Illinois*: The average heater household receives \$458 in benefits with a maximum benefit of \$791, while non-heaters receive a flat payment of \$150 if their rents exceed 30 percent of their incomes.⁴²
- *New Jersey*: Non-heater households receive 50 percent of the benefit that heaters receive. Non-heater households with electric heat receive 150 percent of the heater benefit.⁴³

⁴¹ Conversation with Meredith Lindquist, Program Director, 10/03.

⁴² Conversation with Jim Castelletti, LIHEAP Supervisor, 10/03.

⁴³ Conversation with Joe Walsh, Coordinator, Home Energy Assistance Program, 10/03.

FINDINGS

- ❖ **Most New York City HEAP recipients receive only one-third of the minimum award given to heaters.** Heaters, regardless how much they pay for heat receive *at least* three times the *maximum* award available to non-heaters—including those with a much larger heating burden relative to their income. Consequently, recipients in the five boroughs receive less than those in the rest of the state. The average city beneficiary receives \$85 while the average beneficiary in the rest of the state receives \$524.
- ❖ **New York City as a whole doesn't receive its fair share of HEAP funds.** Even though New York City is home to 62 percent of New York's low-income population, the city receives only about 18 percent of heating assistance funding.
- ❖ **New York State's Office of Temporary & Disability Assistance's (OTDA) current benefit structure is flawed because:**
 - It assumes that households that pay for heat directly spend more than those who pay for heat indirectly—but the average cost is actually the same for both. This is because a significant percentage of eligible households in New York City live in older rental units that are not heated or insulated as efficiently as newer homes.
 - It incorrectly assumes that heating costs for non-heaters are lower because landlords do not pass along that cost to tenants. While landlords may not be able to pass along short term fluctuations in their heating costs because of lease agreements, the long term heating expense is worked into the rent.
 - It does not take into account the likelihood that non-heaters need to supplement their heat when landlords fail to provide it adequately, resulting in higher overall energy costs. This is the case for over 15 percent of New York City renters.

- ❖ **Crisis benefit criteria unfairly favor homeowners and exclude most renters.** An additional ‘crisis’ benefit is only available to heaters even though non-heaters face heating crises too. This creates further inequalities in the way the two groups are treated.
- ❖ **Other states treat non-heaters more fairly than New York.** Other states including Illinois, Massachusetts, and New Jersey fund the heat needs of renters much more equitably than New York State.

RECOMMENDATIONS

- ❖ **OTDA should raise the minimum non-heater benefit.** The state should increase the renter benefit from \$50 to at least \$150 to match the minimum homeowner benefit because relative heating costs of the two groups are at least equal.
- ❖ **OTDA should make crisis benefits available to non-heaters.** The state should make crisis benefits available to households that pay indirectly for heat. Renters should have access to the same benefits as owners if they need to supplement their heat with space heaters and similar devices or need to seek temporary shelter when their heating system breaks down.
- ❖ **OTDA should focus more weatherization assistance funds on New York City.** Cash grants assist low-income households in paying for heating expenses, but a longer-term solution would be to bring those expenses down by making heating systems more efficient and making buildings more weather-proof. Currently, \$20.9 million is allocated to New York City for weatherization assistance to low-income families. This constitutes roughly 47 percent of total state funding.⁴⁴ By accepting this assistance on behalf of low-income tenants, landlords agree not to raise rents for a certain term except to cover the cost of other tax and maintenance increases. Increasing this funding source to New York City would help bring heating costs down for landlords—and, if properly enforced, for tenants—while at the same time keeping rents affordable. Enforcement of weatherization contracts is crucial, however, to ensure that landlords do not exclude low-income tenants once services have been rendered.

CONCLUSION

⁴⁴ Office of Temporary and Disability Assistance, *Weatherization Assistance Program, 2003 State Plan*. These funds are partly HEAP funds and partly Department of Energy funds.

New York State's HEAP plan clearly favors owners over renters. By extension, it favors non-New York City residents over those who live in New York City. This contradicts the goal of serving the low-income vulnerable population because, by any measure, New York City has a greater proportion of that population than the rest of the state. City residents comprise more than two-thirds of the eligible population yet they receive less than 19 percent of the money available. Because of the owner preference, New York City's low income renters are left to pay higher heating costs than homeowners throughout the state.