
Guidance: Requests for Medical Letters to Protect Against Utility Shut-Off

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Generally “utilities” include the following services to your home:

- **Gas** (*Note: Fuel oil is not covered*)
- **Electricity**
- **Landline telephone service** (*Note: Cellular telephone service is not covered*)

Summary:

Low-income households with (a) an infant member or (b) a member who has a serious or chronic serious illness, and who have filed a “*financial hardship statement*” with the utility company are eligible for the service shut-off protections as described below. (Sample financial hardship forms are attached and can be accessed on Logician). Households in which all adult members are age 65 or older, with or without financial hardship, are protected from utility shut-off subject to the terms described below.

GAS AND ELECTRICITY:

An Important Reminder:

Shut-off protection does not prevent utility bills from accruing. Families remain responsible for paying their utility bills even if the utility company cannot shut off service for a period of time. Failure to pay utility bills contributes to bad credit, which can be a barrier to the family’s economic progress well into the future. Therefore, to pay off their arrearages, families should establish reasonable payment plans and should make sure they are using all resources to lower bills, such as the “low-income discount” and “fuel assistance.”

You can refer your patients to **ABCD (Action for Boston Community Development)** at (617) 357-6000 to **apply for fuel assistance**. *Your patients should call their utility companies directly to apply for a low-income discount and free weatherization improvements.*

There are three gas and electricity service shut-off protections:

(1) “Child under 12 months old” (220 CMR 25.03[1][a]2)

If a utility consumer has filed a financial hardship statement and has an infant (baby under 12 months old) living in the home, the utility company has to keep service on. In order to get this protection the utility company needs proof of the child’s age. Proof of infancy includes:

- *Birth Certificate*
- *Baptismal or other Religious Ceremonial Certificate*
- *Department of Transitional Assistance (DTA-welfare office) paperwork*

The consumer can supply the foregoing verifications to the utility company. In the unusual event that no such verification is available, any other reasonable means of verifying age is acceptable, including:

- *A doctor's letter certifying actual or clinically estimated age of the infant.*

Patients should request a letter from a doctor to certify infancy only if they do not have birth or Religious Ceremonial Certificates. (220 CMR 25.03[2]b)

(2) "Serious" or "Chronic Serious" Medical Conditions (220 CMR 25.03[1][a]1)

State law protects households from shut-off when one or more household members are diagnosed with a "serious" or "chronic" medical condition. The law exclusively vests medical doctors, nurse practitioners and physicians assistants with authority to verify the diagnosis of such conditions, but this can be confusing because the terms "serious" and "chronic" are not defined in the law.

Instead, utility companies accord great deference to a clinician's characterization of an illness as "serious" or "chronic." A common misperception is that an illness is only "serious" or "chronic" if its treatment and/or the patient's recovery depend upon uninterrupted utility service; to the contrary, **the law protects all patients with serious or chronic illnesses regardless of the impact on those illnesses of the presence or absence of utility service.**

Some examples include: *Bronchitis, Asthma, Polycystic ovaries, ADHD, Anxiety, Depression.*

A Note About Privacy: The law does not require the doctor to supply the specific name of a diagnosis (e.g. HIV). It is more than sufficient to refer to a "virus" or "immune suppression". It is also sufficient simply to say that the patient has a "serious" or "chronic serious" illness.

If a utility customer or anyone living in his/her home has been diagnosed with a "serious" or "chronic serious" illness, the utility company is not allowed to shut off service. In order to prevent shut-off for these reasons, an authorized clinician (MD, DO, RN-P, PA) will have to "certify" the illness. *In cases where the threat of shut-off is imminent, utility companies are required to honor a phone call from a doctor but s/he will have to follow up with a written illness letter ("certificate") within seven days of the phone call.* (220 CMR 25.03[2]a)

- **"Serious" Illnesses:** If the illness is serious, then the utility company has to keep service on for 3 months. It is important for the doctor to use the words "*seriously ill*" and to state the name of the illness (diagnosis) as long as the patient is comfortable with disclosing that private information. In the event that the patient wants to keep the name or nature of the diagnosis confidential, it is sufficient simply to certify that the doctor has diagnosed the patient with a "serious illness." **If the doctor determines that the illness will last longer than 3 months, s/he will have to submit an updated certificate prior to the expiration of the first 3 month period in order to assure uninterrupted service.** (220 CMR 25.03[4])
- **"Chronic Serious" Illnesses:** If the serious illness is chronic, then the utility company has to keep service on for 6 months. It is important for the clinician to include the phrase "*chronic serious illness*." **If the clinician determines that the chronic serious illness will be lasting longer than 6 months, s/he will have to submit an updated certificate prior to the expiration of the first 6 month period in order to assure uninterrupted service.** (220 CMR 25.03[4])

In order to reduce the likelihood that utility companies will suspect fraud, the clinician needs to fax the certificate directly to the utility companies. The patient does not get a copy of the letter but the clinician will provide a receipt (see form below) to the patient, confirming that the certificate was submitted.

(3) All Adult Household Members are age 65 or older (220 CMR 25.05):

Utility companies are required to devise procedures reasonably designed to identify households in which all adult members are age 65 or older, prior to terminating service for non-payment. In all such cases, the utility company cannot terminate service without first applying for written authorization from the Department of Public Utilities (DPU) and concurrently giving written notice to the Executive Office of Elder Affairs or its designee, and to all household members. (220 CMR 25.05). As a practical matter, the DPU will rarely authorize shut-off: only in cases of clear bad faith, which must include proof of notice; good-faith efforts to collect the bill by other means; and agreement by the company to any reasonable payment plan. Ordinarily, the company will forego seeking to shut-off service, and instead, in cases where the senior owns their home, will undertake to put a "lien" or "attachment" so that the bills can be collected upon sale of the home. Note: interest on the bills will accrue at 12%-18%, capitalized. **Advocacy pointer: Make sure your 65+ patients whose adult housemates are all-65+, have informed their utility companies in writing about their status.**

Note: the law is designed to protect grandparent-headed households, so as long as the only people under age-65 living in the household are minors (under age-18), the elderly protection applies.

LANDLINE TELEPHONE SERVICE:

There are three telephone service shut-off protections:

(1) "Serious Medical Conditions" (DPU 18448 Rules 5.15-5.19)

As with gas and electricity service, if a telephone customer or anyone living in his/her home has been diagnosed with a "serious" illness, the telephone company is not allowed to shut off service. In order to prevent disconnection for these reasons, a doctor will have to "certify" the illness. **Note: for telephone service, only MD and DO clinicians can certify illnesses.** In cases where the threat of shut-off is imminent, utility companies are required to honor a phone call from a doctor but s/he will have to follow up with a written illness letter ("certificate") within seven days of the phone call. **The doctor's certificate will maintain service for 30 days. The certificate can be renewed a maximum of two times totaling 90-days protection from shut-off.**

If the illness persists after 90 days, consider whether the "personal emergency" protection described below may be applicable

(2) "Personal Emergency" (DPU 18448 Rules 5.17-5.19)

The telephone company cannot shut-off service if the customer:

- demonstrates that s/he cannot pay the bill, and
- demonstrates that phone service is necessary to protect the health or safety of a member of the household.

Examples:

- A patient/customer experiencing domestic violence should inform the telephone company that she needs phone service because she may need to call the police, a doctor or a support network if her abuser harms or threatens her or her family.
- A patient/customer with a high-risk pregnancy should inform the telephone company that she needs phone service to maintain contact with her obstetrician.

Patients can demonstrate eligibility for personal emergency protection by writing a letter to the utility company explaining the nature of the emergency. If the telephone company denies the protection, the patient has the right to appeal the denial to the Department of Telecommunications and Energy (DTE).

(3) All Household Members are age 65 or older: (DPU 18448 Rules 8.1-8.4)

Telephone companies are required to devise procedures reasonably designed to identify households in which all members are age 65 or older, prior to terminating local telephone service for non-payment. In all such cases, the utility company cannot terminate local service without first applying for written authorization from the Department of Telecommunications and Energy (DTE) and concurrently giving written notice to the Executive Office of Elder Affairs or its designee, and to all household members. **Advocacy pointer: Make sure your 65+ patients who live in all-65+ households have informed their telephone company in writing about their status. Note: unlike gas and electricity protections, grandparent headed households are not protected. Only households comprised entirely of elderly persons are protected from telephone service termination as described above.**

Summary Chart:

| Utility Shut-off Protections: | Infant under 12-months old | Serious Illness | Chronic Serious Illness | Personal Emergency | All household members age-65+ | All adults age-65+ | RN-P/ PA can certify | MD/ DO can certify |
|--------------------------------------|-----------------------------------|------------------------|--------------------------------|---------------------------|--------------------------------------|---------------------------|-----------------------------|---------------------------|
| Gas/Electricity | X | X | X | | X | X | X | X |
| Telephone | | X | | X | X | | | X |