

## Assisting Massachusetts Victims of Crime and Domestic Violence Survivors Who are Having Problems Establishing a New Account or Paying Utility Bills<sup>1</sup>

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Domestic violence and criminal activity affect many Americans. The most serious crime of violence – homicide – claims 15,000 to 20,000 lives annually in the United States, and violence by intimate partners accounts for 15% of all violent crimes. While Massachusetts has a lower-than-average violent crime rate, there are still typically over 100 murders annually and tens of thousands of other crimes of violence. In Massachusetts, one in three women and one in five men report being the victim of rape, physical violence, or stalking by an intimate partner in their lifetime.



Violent crime and domestic violence can take a life, or cause grave personal injury. But acts of violence can create a cascade of other harm, including emotional trauma and financial problems.

Just one of the financial harms a crime victim or domestic violence survivor may face: the need to establish new utility service or ensure continued utility service. While Massachusetts does not have any laws or policies specifically designed to help address problems with utility bills if the consumer was a crime victim or domestic violence survivor, there are some tools that can prove very helpful for advocates to assist clients.

## Using “Customer of Record” Theory to Get Service in Your Client’s Name



Massachusetts follows a “customer of record” theory, under which the person whose name is on the account clearly is legally obligated to pay those bills, but **spouses and other household members whose names are not on the account are not legally responsible to pay for any utility service that was delivered.** For example, a client who leaves the home due to domestic violence can set up an account in his or her own name and is not responsible for any portion of the bills at the home if the account was in the abuser's name. This is so whether or not the client was married to the abuser and even though the client lived in the home and benefited from the utility service. Similarly, if one spouse is ordered to leave the house<sup>2</sup> and his or her name was on the bills, the remaining spouse is generally not responsible for the bills sent under the name of the

spouse ordered out of the home.<sup>3</sup> A DV survivor who does not owe money to the utility company from a prior address can get service in his or her own name when moving to a new address (e.g. fleeing the domestic violence) or if he or she stays in the home after the abuser leaves.<sup>4</sup>

## Assistance in Getting Bills Paid

Victims of crime and domestic violence may have a hard time paying the bills, possibly because resulting physical injury limits the victim's ability to work, or – in the case of the domestic violence survivor whose partner was ordered to leave the home – having less household income available to pay the bills. Fortunately, Massachusetts has a panoply of programs and policies that help those who are struggling to pay their utility bills. While not specifically developed to address the needs of those who have suffered domestic violence or violent crime, they can still be beneficial, including for those victims who *are* legally responsible for paying the utility bills.

### Payment plans

**Massachusetts requires utility companies to offer payment plans of at least four months duration on overdue bills.**<sup>5</sup> It is likely that the utility company would be willing to enter into a payment plan of longer than four months for a caller who identifies as a victim of crime or domestic violence, and shows that the household lost income as a result.<sup>6</sup> Even if the company is not willing to enter into a long enough payment plan, the customer can call the Department of Public Utilities Consumer Division, which has the authority to order the company to enter into a longer payment plan than it was initially willing to.<sup>7</sup>



### Fuel assistance program

Massachusetts operates a program to help low-income households pay their home energy bills, including natural gas and electric bills. **The program generally provides up to \$1,000 in payment assistance on those bills.** For information on applying, see the “[Cold Relief](#)” brochure published by the Massachusetts Department of Housing and Community Development.<sup>8</sup>

## Protections Against Termination of Utility Service/Ability to Restore Terminated Service

Massachusetts has a broad range of protections against termination of utility service. In most cases, those protections (see below) would also require the company to restore already terminated service.

### A. Serious illness protection

**In Massachusetts, no electric or gas utility may terminate or fail to restore utility service when there is a serious illness in the household,** as certified by a doctor, physician's assistant, nurse practitioner, or local board of health, and a financial hardship in paying the bills.<sup>9</sup> The illness can be short term or chronic; or physical, mental, or emotional. The letter from the doctor/physician's assistant/nurse practitioner/board of health is presumptively valid.<sup>10</sup> Therefore, it is in the discretion of the person drafting the letter – and NOT of the utility – to decide whether there is in fact a serious illness. *A customer seeking this protection must submit the serious illness letter just mentioned, along with a "financial hardship" form (see E).*



### B. Infant protection

**In Massachusetts, no electric or gas utility may terminate or fail to restore utility service when there is an infant in the household under the age of one,** and a financial hardship in paying the bills.<sup>11</sup> Proof of age may be "in the form of a birth certificate, or letter or official documents issued by a registered physician, physician assistant, nurse practitioner, local board of health, hospital or government official; Department of Transitional Assistance; or clergy or religious institution." *In order to get the protection, the customer must submit proof of the infant's age, and a "financial hardship" form (see E).*



### C. Winter moratorium protection



**In Massachusetts, no electric or gas company may terminate or fail to restore service if the date is between November 15 and March 15;** the customer's utility service provides heat or is needed to operate the heating system; the account was not shut off prior to November 15 due to non-payment; and the customer has a financial hardship in paying the bills. NOTE that the end date of the moratorium is often extended by the Department of Public Utilities to April 1, in response to a joint annual request from the National Consumer Law Center, the Attorney General, and the state's utility companies. Also note that while utilities are not required to protect accounts

that are not heat-related (e.g., the customer only uses gas for the stove because the landlord provides the heat), many companies choose not to shut off accounts that are not heat-related. *In order to obtain winter moratorium protection, the customer only needs to submit a “financial hardship” form (see E).*

## D. Elderly protection

The rules are a bit confusing as there are slightly different rules in 220 Code Mass. Regs §§ 25.03(1)4. and 25.05. However, simplifying somewhat, if the household fills out a utility company provided form certifying that all adults in the household are over the age of 65, the utility company will treat this as a protection against termination, even though the utility could petition the Massachusetts Department of Public Utilities to allow a termination to go forward. **Note:** if an elderly customer who owns his or her home asserts this protection and then fails to pay the bills as they come due, the company may sue the homeowner, (likely) obtain a judgment, and place a lien on the home.



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## E. Financial hardship forms



As noted, a customer seeking certain protections against termination of utility service must submit a financial hardship form. A utility must treat a household as having a financial hardship if the household qualifies for the state’s fuel assistance program (also known as the Low Income Home Energy Assistance Program or LIHEAP),<sup>12</sup> which currently sets an upper income limit of 60% of state median income. Households with income somewhat above that limit can ask the Massachusetts Consumer Division of the Department of Public Utilities to determine that the household has a “financial hardship” in paying their utility bills.<sup>13</sup> Each company uses its own financial hardship form, which can usually be obtained by calling a customer service representative at the company.

## Additional Resources

For a more detailed discussion of the topics discussed, download NCLC’s free e-book *Utilities Advocacy for Low-income Households in Massachusetts* (4th ed. 2019).<sup>14</sup> The book contains relevant regulations and sample forms.

Advocates who would like advice on individual client cases can email [utility@nclc.org](mailto:utility@nclc.org), or contact National Consumer Law Center attorneys Charlie Harak ([charak@nclc.org](mailto:charak@nclc.org)) or Jenifer Bosco ([jbosco@nclc.org](mailto:jbosco@nclc.org)) or (617) 542-8010.

## Endnotes

1. A much more detailed discussion of the rights of utility customers in Massachusetts, as well as relevant regulations and sample forms, are in the National Consumer Law Center book, *Utilities Advocacy for Low-income Households in Massachusetts* (4<sup>th</sup> ed. 2019). We advise caution in relying on this highly-abbreviated summary and urge users to carefully review the actual regulations cited herein.
2. For example, under Mass. Gen. Laws ch. 209A.
3. Note, however, under Mass. Gen. Laws ch. 209, § 1: "...both spouses [in a marriage] shall be liable jointly or severally for debts incurred in account of necessities furnished to either spouse or to a member of their family." Utility service would usually be considered a "necessary." This statute would thus allow a utility to seek payment for utility bills from one spouse, even if the bills were sent in the name of the other spouse. In practice, utilities sometimes do not assert their rights under this statute and will establish service without seeking payment from the spouse whose name was not on the bills.
4. However, assume Spouse A is currently living at 100 Main Street, but previously lived at 67 Pleasant Street and has an unpaid balance from that prior address. If Spouse A gets an order under Mass. Gen. Laws ch. 209A that forces Spouse B to leave the home, and the bills were in Spouse B's at 100 Main street, Spouse A will still need to make a payment arrangement on the old bills from 67 Pleasant Street in order to get service in Spouse A's own name at 100 Main Street.
5. 220 Code Mass. Regs 25.01(2) (definition of "payment plan").
6. Of course, some victims might not want to share that information.
7. The Department's Consumer Division can be reached at (617) 737-2836 or (877) 886-5066. Call volumes can be high at times, so it may take some persistence to get through. The Consumer Division's email address is [DPUConsumer.Complaints@state.ma.us](mailto:DPUConsumer.Complaints@state.ma.us).
8. Low income is defined as those with household income at or below 60% of state median income. For current income limits as of February 2019, review the state's "[Cold Relief](#)" brochure. NOTE that the state updates this brochure annually.
9. 220 Code Mass. Regs 25.03(1).
10. 220 Code Mass. Regs § 25.03(3).
11. 220 Code Mass. Regs 25.03(1).
12. 220 Code Mass. Regs § 25.01(2)(definition of "financial hardship").
13. 220 Code Mass. Regs § 25.01(2)(definition of "financial hardship").
14. See National Consumer Law Center's [Stay Connected Project](#).