

Addressing the Unique Utility Issues of Domestic Violence Victims

Elizabeth Marx, Staff Attorney
Pennsylvania Utility Law Project

The National Energy and Utility Affordability
Conference

Ft. Lauderdale, FL.

June 26, 2017



What is Domestic Violence?

Department of Justice

Office of Violence Against Women:

A pattern of abusive behavior in any relationship that is used by one partner to gain or maintain

power and control

over another intimate partner. Domestic violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person.

Power and Control

Credit:
Domestic Violence Intervention
Project,
<http://www.theduluthmodel.org/training/wheels.html>



Economic Abuse

- **Finances / Credit**
 - Opening / Abusing Credit
 - Bouncing Checks
 - Forging Checks / Financial Documents
 - Denying Access to Finances / Credit
 - Accumulating Debt / Filing Bankruptcy
- **Employment & Workplace**
 - Stalking / Abuse at Workplace
 - Sabotaging Performance / Reputation
 - Causing Tardiness / Repeated Absences / Leave Early
- **Child Support**
 - Refusing to Pay Support / Work Reduced Hours / Not Reporting Income
 - Denying Paternity
 - Not Providing Available Insurance / Health Care
- **Housing**
 - Repeated Police Visits / Eviction
 - Interference with Lease / Public Housing Agreements
- **Public Assistance**
 - Causing Infractions / Threatening to Report
 - Stealing Checks
 - Causing Sanctions
- **Legal Issues**
 - Abuse of Process

Why DV and Utilities?

- Economic Abuse
- Transition / Unique Hardship
- Safety
- Access to Public Housing
- Child Custody / Child Safety

PULP's Domestic Violence Utility Initiative

Project Goal

To help survivors of domestic violence secure affordable, reliable utility service.

- Objective 1: Direct Service
- Objective 2: Staff Capacity Building
- Objective 3: Survivor Training

Partner Organizations

- The Women's Resource Center (Scranton, PA)
- The Women's Center, Inc (Bloomsburg, PA)
- Domestic Violence Service Center (Wilkes Barre, PA)
 - *Third agency added in 2016-2017 Program Year*

PULP's Domestic Violence Utility Initiative

By the Numbers – July 2015 – March 2017:

- Handled **206** Cases
- Cleared / Deferred Approximately **\$101,800** in Arrears
- Reconnected / Prevented Active Termination of **122** Accounts
- Assisted **all** clients with enrollment in assistance programs

Brainstorm:

What tools are available in your state to assist victims of domestic violence with utility debt?



DV Protections in PA

A Case Study

Legal Authority - Pennsylvania

- **Pennsylvania Statutes, Title 66, Chapter 14**
 - Responsible Utility Customer Protection Act
 - 66 Pa. C.S. §§ 1401-1419
 - 66 Pa. C.S. § 1417:
 - "This chapter shall not apply to victims under a protection from abuse order ... or a court order issued by a court of competent jurisdiction in this Commonwealth, which provides clear evidence of domestic violence against the applicant or customer."
- **Pennsylvania Code, Title 52, Chapter 56**
 - Subchapters A-K: General Regulations
 - *Amended to include regulated water / wastewater*
 - Subchapters L-V: Victims of DV with PFA
 - *Amended to include court order with clear evidence of domestic violence.*
- **PUC Order Amending Current Regulations:**
 - PUC Final Implementation Order, [Docket No. M-2014-2448824](#)
- **Pending Rulemaking**

Security Deposits

Security Deposits - Exceptions / Waivers

- CAP-Eligible (low income / payment troubled)
 - 66 Pa. C.S. 1404(a.1)
- PFA / Other Order:
 - 52 Pa. Code 56.282(3)
 - Waiver if:
 - "Not an Unsatisfactory Credit Risk"
 - Employment, past residences, letters of reference, credit report
 - Responsible for similar utility service within 24 mo., and
 - Was not terminated for nonpayment in last 12 months;
 - Average bill = at least 50% of estimated new service; OR
 - Applicant does not have unpaid balance for prior service

Prior Arrears

Prior Arrears – Exceptions / Waivers

– PFA / Other Order

- 52 Pa. Code 56.285

- No liability for arrears in another name, unless court order declaring it to be victim's debt.

- “A utility may not require, as a condition of furnishing of residential service, payment for residential service previously furnished under an account in the name of a person other than the applicant unless a court, district justice, or administrative agency has determined that the applicant is legally obligated to pay for the service previously furnished. Examples of situations include a separated spouse or a cotenant.”

- Additional / longer PUC-issued payment arrangements.

– First-Time CAP Enrollment

- Freezes balance

- Each on-time CAP bill payment will forgive a portion of the arrears

Payment Agreements

- Payment Agreements for Customers with PFA / Other Order

- 52 Pa Code Section 56.285:

- ...An outstanding residential account with the utility **may be amortized over a reasonable period of time.**
- Factors to be taken into account include:
 - the size of the unpaid balance,
 - the ability of the applicant to pay,
 - the payment history of the applicant, and
 - the length of time over which the bill accumulated.

Terminations

- Termination Exception – 56 Pa. Code 56.323
 - A victim of domestic violence with a PFA or other court order may **NOT** be terminated for “*nonpayment for residential service already furnished in the names of persons other than the customer...*”

Terminations

- **Notice Requirements:**
 - Written Notice
 - Written notice must be provided at least 10 days before termination, but may be provided up to 60 days prior to the termination.
 - "Personal *Contact*"
 - 3 days prior to termination, utility must **attempt** to contact customer in person, by phone, or through email/text/electronic
 - Customer must **AFFIRMATIVELY CONSENT** to receive notice electronically
 - Often consent is given at the time the customer signs up for service.
 - **Additional Notice for Customers with PFA / Court Order**
 - Attempted "personal contact" immediately preceding termination
 - If no personal contact, notice is posted at the property and termination is delayed for 48 hours.
- **Terminations may only occur Monday - Thursday**
 - ***No Friday Terminations***

Universal Service Programs

- **Customer Assistance Program**
 - Eligibility: Payment Troubled / Low Income (150% FPL)
 - Benefit: Discounted Bill / Arrearage Forgiveness
- **Hardship Fund (Fuel Fund)**
 - Eligibility: Hardship / Low Income (200% FPL) / One per year
 - Benefit: Up to \$500 Cash Grant to resolve emergency
- **LIHEAP**
 - Eligibility: Low Income (150% FPL) / Heating Responsibility

Utility Relief in Protection From Abuse Order (PFA)

- Request Utility Relief in PFA Order

- 23 Pa. C.S. 6108(8)

- "Directing the defendant to pay the plaintiff for reasonable losses suffered as a result of the abuse, including ... relocation and moving expenses, ... loss of earnings or support, ... and other out-of-pocket losses for injuries sustained."

- 23 Pa. C.S. 6108(10)

- "Granting any other appropriate relief sought by the plaintiff."

Other Important Protections

- Third Party Notifications
- Account Passwords / Alerts
- Account Activity Notices



Advocacy in Your State

Security Deposits

- Adopt Domestic Violence Waiver
 - Consider self-certification to prevent exclusion of high-risk cases
- Leverage Current Waiver Rules
- Consider DV as Mitigating Factor in Assessing Creditworthiness
- Partner with Domestic Violence Programs for Direct Assistance
- Allow Payment Over Time

Arrearage Management

- Adopt DV Exception for Adult Occupant Liability
- Refer to Universal Service Programs
- Allow Extended Payment Arrangements Based on Individualized Circumstances
- Waive Fees
- Accept Lesser Amount to Connect
- If Joint Arrears, Pursue Abuser

Terminations

- Provide Personal Contact / Additional Notice
- Provide Extended Timeframe for Disconnect
- Refer to Universal Service Programs
- Allow Third Party Notification
- Offer Account Password Protection
- Provide Referrals to Domestic Violence Programs

Universal Service Programs

- Allow Enrollment Upon Connection / Reconnection
- Defer Debt / Provide Arrearage Forgiveness Over Time
- Prioritize DV Victims / Include DV as Recognized Hardship
- Do Not Include Child Support as "Income" In Eligibility Calculation
- Accept Applicants with "Zero Income"
- Promote Programs through Domestic Violence Programs



Questions / Comments?

Thank you!

Elizabeth Marx, Staff Attorney
Pennsylvania Utility Law Project
emarxpulp@palegalaid.net
717-236-9486 x. 205