

New York State Climate Affordability Study

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**Department of
Environmental
Conservation**

Climate Affordability Study

Distributing the New York Cap and Invest Program's Consumer Climate Action Account Benefit

Final Report
December 20, 2023

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Notice

This report was prepared by a consulting team led by ICF and included the Urban Institute, KPMG, and the Fiscal Policy Institute in the course of performing work contracted for and sponsored by the New York State Energy Research and Development Authority (hereafter “NYSERDA”) and the New York State Department of Environmental Conservation (hereafter, “DEC”). NYSERDA, DEC, the State of New York, and the contractor team make no warranties or representations, expressed or implied, as to the fitness for particular purpose or merchantability of any product, apparatus, or service, or the usefulness, completeness, or accuracy of any processes, methods, or other information contained, described, disclosed, or referred to in this report. NYSERDA, DEC, the State of New York, and the contractor team make no representation that the use of any product, apparatus, process, method, or other information will not infringe privately owned rights and will assume no liability for any loss, injury, or damage resulting from, or occurring in connection with, the use of information contained, described, disclosed, or referred to in this report.

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Abstract

This Climate Affordability Study, sponsored by the New York State Energy Research and Development Authority (NYSERDA) and the Department of Environmental Conservation (DEC), in consultation with the Division of the Budget (DOB), the Department of Public Service (DPS), and the Department of Taxation and Finance (DTF), considers optimal ways to deliver funds allocated to the Consumer Climate Action Account (CCAA) as part of the revenues generated under the New York Cap and Invest (NYCI) Program. This study surveys 29 policy precedents and analyzes eligibility for 14 benefit programs assisting New Yorkers. Key recommendations include using refundable tax credits and, potentially, existing benefit programs for maximum reach across incomes and locations. Further suggestions cover calculating per-capita payments with regional adjustments, phasing out benefits by income to focus on lower income earners, securing Internal Revenue Service (IRS) guidance on tax treatment, interagency coordination, and outreach. The results of the study aim to meet key objectives around equitable statewide reach, minimizing tax implications, and administrative burdens for both recipients and the State.

Keywords: carbon dividend, auction allowances, cap-and-invest, carbon pricing, climate pricing, CO₂, greenhouse gas emissions, disadvantaged communities, revenue recycling, refundable tax credit, means-tested benefit programs

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Acronyms and Abbreviations

ACA	Affordable Care Act
ACS	American Community Survey
AGI	Adjusted Gross Income
APF	Alaska Permanent Fund
APFC	Alaska Permanent Fund Corporation
CAIP	Climate Action Incentive Payment
CARB	California Air Resources Board
CCAA	Consumer Climate Action Account
CHIP	Children’s Health Insurance Program
CMA	Census Metropolitan Area
CMS	Centers for Medicare and Medicaid Services
CO ₂	Carbon Dioxide
COLO	Cost of Living Offset
CRA	Canada Revenue Agency
DAC	Disadvantaged Communities
DEC	Department of Environmental Conservation
DOB	Division of the Budget
DPS	Department of Public Service
DTF	Department of Taxation and Finance
EBT	Electronic Benefit Transfer
EITC	Earned Income Tax Credit
ESCC	Empire State Child Credit
ft	Feet
FTB	Franchise Tax Board
GHG	Greenhouse Gas
GNWT	Government of Northwest Territories
GST	Goods and Services Tax
HHS	Health and Human Services
HST	Harmonized Sales Tax
ITIN	Individual Taxpayer Identification Number
IRC	Internal Revenue Code
IRS	Internal Revenue Service
kWh	Kilowatt Hours
LADOT	Los Angeles Department of Transportation
LIHEAP	Low-Income Home Energy Assistance Program
m/s	Meters per Second
MCTR	Middle-Class Tax Refund

MW	Megawatts
NREL	National Renewable Energy Laboratory
NWT	Northwest Territories
NYCI	New York Cap and Invest
NYC	New York City
NYS	New York State
NYSERDA	New York State Energy Research and Development Authority
OTDA	Office of Temporary and Disability Assistance
PFD	Permanent Fund Dividend
RGGI	Regional Greenhouse Gas Initiative
SHA	Seattle Housing Authority
SNAP	Supplemental Nutrition Assistance Program
SSI	Supplemental Security Income
SSN	Social Security Number
SSP	State Supplementary Payments
STAR	School Tax Relief
TANF	Temporary Assistance for Needy Families
W	Watts
WIC	Special Supplemental Nutrition Program for Women, Infants, and Children

Executive Summary

As directed in Section 1854, subdivision 26 of the Public Authorities Law, this Climate Affordability Study considers how best to deliver funds allocated to the Consumer Climate Action Account (CCAA) as part of the overarching investment framework established for the New York Cap and Invest (NYCI) Program. The study evaluates options for benefit delivery based on a survey of 29 precedents and 14 benefit programs. Delivery mechanisms assessed include direct payments, tax credits, utility assistance, and transit vouchers, among other options.

The study assessed options based on core objectives for the use of CCAA funds:

- To address New Yorkers' energy costs in a manner that takes into account regional variation due to differences in the built environment and weather patterns.
- To deliver benefits equitably across New York State (NYS); CCAA benefits should be distributed to deliver maximum benefits to low- and middle-income households, including those in Disadvantaged Communities (DAC).
- To deliver benefits in a way that does not add to income tax burdens or interfere with eligibility for means-tested benefit programs.
- To limit administrative effort on the part of recipients and administrative cost to the State.

Summary of Recommendations

The Study developed the following recommendations, which are described in more detail in Section 2.

Overarching Program Structure:

- Deliver benefits primarily via a refundable tax credit while exploring the feasibility of using additional channels (a "waterfall" approach) to reach individuals that do not file taxes; these could potentially include utilizing an existing benefit delivery program, and a supplemental application process to further expand reach as needed.

Distribution Considerations:

- Calculate amounts on a per-capita, or individual, basis.
- Include a regional adjustment based on a measure of exposure to energy costs.
- Phase out payment progressively by adjusted gross income (AGI) above a to-be-determined income level, possibly aligning with other program income thresholds and phaseouts such that payment phases out completely above a to-be-determined high-income threshold.

Tax and Eligibility Considerations:

- Explore securing a Private Letter Ruling from the IRS on the question of whether payments to at least some portion of the State's population will not be included in gross income for Federal income tax purposes.
- Ensure that the State does not consider the CCAA benefit as income for the purposes of State taxes and State means-tested benefits insofar as the State has discretion to do so.

- Pay benefits on an annual basis to decrease likelihood of their counting as income to means-tested benefit programs. Conduct further interagency coordination to determine impact and if consultation is needed with federal program staff.

Administrative Considerations:

- Potential delivery options (tax filing system and existing benefit program) would not require high administrative effort on the part of recipients.
- Although automatic direct payments would be a low-recipient-effort option that could potentially afford flexibility in timing of payments and increased salience for recipients (e.g., not “embedded” within a tax filing), this option also involves significant administrative cost and feasibility challenges associated with instituting a new, dedicated payment.
- Delivering the benefit as a refundable tax credit would preserve many of the associated benefits of using the tax system, including a substantially lower administrative cost and higher degree of feasibility that comes with linking benefit delivery with an existing implementation process, especially if utilizing an existing tax credit.
- Similar administrative cost and feasibility tradeoffs may also be considered while determining how to potentially utilize an existing benefit program alongside a tax filing-based delivery as part of a waterfall approach to program delivery.
- NYSERDA can provide technical support to develop the specific regional adjustment that would best address regional differences in energy costs.

Delivery mechanisms considered less effective in meeting program objectives include direct payments, nonrefundable tax credits, utility bill assistance, and transit vouchers.

1 Overview of the Study

Based on statutory direction, this Climate Affordability Study considers how best to deliver funds allocated to the Consumer Climate Action Account (CCAA) as part of the overarching investment framework established for the New York Cap and Invest (NYCI) Program. This section introduces the basis of this report by providing background on NYCI as well as establishing the core objectives and research approach of this study to inform the CCAA.

1.1 New York Cap-and-Invest Program Overview

New York State (NYS) is advancing an economywide cap-and-invest program that establishes a declining cap on greenhouse gas (GHG) emissions, limits potential costs to economically vulnerable New Yorkers, invests proceeds in programs that drive emission reductions in an equitable manner, and maintains the competitiveness of New York industries. A cap-and-invest program was recommended by the Climate Action Council's final Scoping Plan¹ and proposed by the Governor in the 2023 State of the State Address and Executive Budget.

The NYCI program will incorporate these guiding principles:

- *Affordability*: Craft a program to deliver money back to New Yorkers to ensure energy affordability.
- *Climate Leadership*: Catalyze other states to join New York and allow linkage to other jurisdictions.
- *Creating Jobs and Preserving Competitiveness*: Protect existing jobs and support new and existing industries.
- *Investing in Disadvantaged Communities*: Ensure 35%+ of investments benefit DACs.
- *Funding a Sustainable Future*: Support ambitious clean energy investment.

Proceeds from NYCI auctions will be invested to bolster carbon reductions and help ensure the Program is affordable for all of New York and delivers benefits to disadvantaged communities. These proceeds will support critical investments in climate mitigation, energy efficiency, clean transportation, and other projects, in addition to funding an annual CCAA that will be distributed to New Yorkers to support energy affordability.

1.2 Consumer Climate Action Account Overview

To advance recommendations to inform the distribution of funds from the CCAA, NYSERDA has undertaken a Climate Affordability Study as directed in the 2023-2024 New York State Budget.

1.2.1 Program Objectives

The NYCI program maintains a set of objectives it seeks to guide the delivery of CCAA funds. They are:

¹ New York State Climate Action Council. 2022. "New York State Climate Action Council Scoping Plan." <https://climate.ny.gov/Resources/Scoping-Plan>

- To address New Yorkers’ energy costs.
- To deliver benefits equitably across New York State.
- To deliver benefits in a way that does not add to income tax burden or interfere with eligibility for means-tested benefit programs.
- To limit administrative effort on the part of recipients and administrative cost to the State.

This study seeks to assess ways various benefit distribution mechanisms meet the four core objectives of NYCI’s delivery of the CCAA benefit.

1.2.2 Analytic Research Approach

This study takes an analytical approach to evaluating the design of similar preexisting programs, reviewing New York State’s means-tested benefit program landscape, and understanding relevant tax considerations. This allows for a synthesis of key takeaways and insights to inform potential distribution and design options for the CCAA.

Research

The research phase of the study began by conducting a thorough review of 29 different state- and national-level precedents within programs that distribute money to residents in order to understand their components, commonalities, and how they may shed light on NYCI’s delivery of the CCAA benefit (Section 3.1). Then, 14 existing benefits programs were examined to understand their important elements, such as eligibility requirements and administrative processes (Section 3.2). Alongside the benefit program research, research on IRS income definitions was carried out to determine potential tax implications (Section 3.3).

Synthesis

Following the collection of information on existing programs and tax considerations, the synthesis of research on past precedents sought to identify how the examples might align with the objectives of NYCI and the distribution of the CCAA benefit. This included grouping the past precedents into categories according to their delivery mechanism: tax credits, direct payments, vouchers (including transit vouchers), and utility bill assistance. Programs within each delivery mechanism category still showed variations in how they reach their recipients and the parameters that dictate other characteristics of the benefit. These variations, together with the benefit program information and tax information, were synthesized to consider the extent to which each mechanism can reach core NYCI program objectives.

Results and Recommendation

Based on this synthesis and analysis, a set of recommendations for optimal design and delivery options have been developed to maximize alignment with the program objectives of NYCI and the CCAA. Certain delivery mechanisms and design options have been found to better align with the core objectives of NYCI and the CCAA benefits. For example, a refundable tax credit allows for broad reach at a lower administrative cost than other options. However, no single mechanism satisfies all of the core NYCI and CCAA objectives, thus the study recommends exploring the feasibility of a “waterfall” approach to benefit delivery. Section 2 explores the results of the study and discusses the recommendation in more detail.

2 Recommendations

Based on the research and synthesis discussed in Sections 3 and 4, this study presents a series of recommendations for meeting the objectives for the delivery of CCAA benefits.

2.1 How CCAA Benefit Design Options Can Meet Program Objectives

Each of the design options identified in Section 4 has advantages and disadvantages in relation to meeting the core program objectives for the delivery of CCAA benefits. The core program objectives are summarized below.

Targeting benefits to geographies with higher energy costs

As discussed in Section 4.2, fossil fuel use and household energy and transportation burden vary by geography due to differences in the built environment, transit availability and use, and regional climate, which will drive variability in energy costs by region. The CCAA benefit should be designed to reflect these differences so that regions with higher energy costs receive a larger benefit.

Promoting broad and equitable distribution

Low-income households, and households in DACs, face a higher energy burden than high-income households because they face tighter household budget constraints. The CCAA benefit should be designed to deliver maximum assistance to low- and middle-income households, including those in DACs, to help alleviate higher energy burdens. The CCAA benefit should be designed to reach as many low-income households as possible.

Addressing tax and eligibility concerns

To ensure the greatest efficiency in distributing the CCAA benefit, and that as much of the available CCAA funds are delivered to households, the benefit should not be subject to federal and state income taxes. To ensure there are no unintended negative consequences of delivering the CCAA benefit to low-income households, the CCAA benefit should not be considered for qualification for government assistance programs.

Minimizing administrative burdens

To ensure broad reach and minimum cost to recipients, the CCAA benefit should ideally be accessible to recipients with minimum administrative effort. In addition, to ensure the maximum amount of CCAA funds available for the benefit, the State's delivery mechanisms should endeavor to minimize administrative costs.

2.1.1 CCAA Benefit Design Recommendations

Recommendations for CCAA benefit design are based on options that are best combined to meet the core program objectives. To develop these recommendations, the different design components of the programs

reviewed in Section 3 and subsequently analyzed in Section 4 were considered. Section 2 describes the recommended design and discusses remaining uncertainties and questions this study cannot answer.

2.1.1.1 Overarching Program Design

This study recommends that New York State entertain a refundable tax credit as a primary means of delivering CCAA benefits. In addition, the study recommends that New York State explore the feasibility of using additional channels to deliver CCAA benefits to reach individuals that do not file taxes. These could potentially include utilizing an existing benefit delivery program to reach non-tax-filers, as well as a supplemental application process to ensure access to CCAA benefits is broadly available. It is recommended to have the annual benefit calculated on a per-capita/individual basis, including a regional adjustment based on a measure of exposure to energy costs and using adjusted gross income (AGI) to phase out the benefit progressively above a to-be-determined income level, such that it phases out completely at a to-be-determined high income level. The annual benefit would be based on CCAA funds and information available as of a specific date.

This recommendation:

- Has broad reach while maintaining equity.
- Addresses energy costs with a geographic adjustment.
- Is progressive with respect to income, concentrating benefits among the lowest income New Yorkers.
- Has lesser risk of impacting eligibility for means-tested benefit programs for low-income households.
- Ensures equality between payments made to households and payments made to single tax units via the per capita structure.
- Likely does not completely eliminate risk of federal tax liability.
- Has lower, although not low, administrative costs to New York State by leveraging existing data and processes.

The sections below discuss recommendations in relation to the core program objectives.

2.1.1.2 Distribution of benefits is broad and equitable across NYS

This study recommends that New York State explore the feasibility of a “waterfall” approach to delivering CCAA benefits centered on a refundable tax credit as its primary delivery mechanism. In addition, the State could explore the feasibility of potentially distributing CCAA benefits to low-income, non-tax-filing households through an existing means-tested benefit program, as well as through a supplemental application process to expand reach to households and individuals that do not file taxes and are not enrolled in a means-tested benefit program.

Exploring a waterfall delivery is recommended because there is no single way to reach all New York State households with existing data and processes. Pursuing a singular approach would require setting up an entirely new, costly delivery and data system, accompanied by expansive outreach and self-identification by nearly all New York State residents. Using a refundable tax credit as the first step in a waterfall delivery process would reach most New York State households because New York State already

has a process to do so, and the majority of New York State residents can be identified through personal income tax data (see Section 4.3). In addition, it is important to consider how the CCAA benefit could reach low-income households that may be difficult to identify (e.g., may not file taxes) and deliver to (e.g., are “unbanked” and do not have access to a bank account). If found to be feasible, a waterfall delivery approach would seek to reach non-tax filing households by leveraging an existing means-tested benefit and supplemental application process. More detail on distributing benefits with a refundable tax credit, a means-tested benefit program, and a supplemental application are discussed below.

Recommended Primary Distribution Mechanism: Refundable Tax Credit

A refundable tax credit would reach most New York State residents and would include all the necessary data required to deliver benefits including income, address, and a system to pay. Because a household, the unit of delivery for most assistance benefit programs, may include more than one tax filer (known as a tax unit), it would be important to structure payments to addresses with multiple tax units to align with the potential for delivering payments to households via other channels. This would ensure consistency in payment across the two distribution methods. To do this, the recommendation includes the suggestion to distribute with a per-capita based formula. Therefore, households or tax units would be treated equivalently based on the number of individuals within each.

Additional Distribution Mechanism to Explore: Means-tested Benefit Program

To reach low-income households that do not file taxes, a potentially promising option to explore would be to use an existing means-tested benefit program that already provides funds to low-income households. New York State would need to identify the specific means-tested benefit program(s) to use. When evaluating which means-tested benefit program(s) to use, it will be important to consider the number of households reached, the distribution method, and the flexibility the State has for program design and eligibility determination. Programs that have distribution methods using EBT cards, for example, would be effective in reaching the unbanked, address issues with low-income households changing addresses, and reduce administrative effort and costs.

Supplemental Distribution Mechanism to Explore: Application Process to Expand Reach

Despite the expansive reach that using the combination of a refundable tax credit and an existing means-tested benefit program would have, there would still be New York State residents not identified through these two main distribution channels. To reach non-tax filing households who also do not receive benefits through the selected benefit program(s), a supplemental application process would likely be necessary. To be successful, such a process would require outreach to notify people about the CCAA benefit and mechanisms to receive it. Options for outreach could include mailers to participants in other benefit programs or working with utilities to provide bill inserts. Applicants would need to provide information for a mailed check unless other processes exist for an automatic payment.

An agency to administer the supplemental application, if deemed feasible, would need to be identified. The supplemental application process could potentially be managed by existing benefits program administration, leveraging existing experience with reaching low-income households. Regardless of the agency identified, the application process would need to open after payments to the first two groups to ensure no duplication of payments. This would entail coordination between agencies holding

supplemental application process data, assistance benefit programs data, and the refundable tax credit data.

Supporting Precedents: The recommendation to explore advancing a waterfall delivery system potentially comprised of a refundable tax credit, existing means-tested benefit program, and supplemental application process was developed based on the review of programs discussed in Section 3 and further summarized in this section below.

Refundable tax credits, along with similar-in-intent direct payment provisions, are common delivery methods used to reach a large number of recipients and are employed by similar cap-and-invest programs. For example, New York State already offers refundable credits like the Earned Income Credit, Empire State Child Credit, and Real Property Tax Credit, and Washington State’s cap-and-invest program allows allocation of some revenue toward a refundable earned income credit called the Working Families Tax Credit. Australia’s 2011 Clean Energy Act likewise accompanied its carbon tax with supplemental payments through its existing income support programs.

In contrast, separate programs of direct payments to residents are used to distribute funds from cap-and-invest revenues under the Austrian Klimabonus, the Canadian Climate Action Incentive Payment (CAIP), and from oil revenue under the Alaska Permanent Fund (APF).

A waterfall approach resembles payment processes currently used for publicly supported benefits such as health insurance, disability support, and retirement in the United States. New York State does not currently administer any state-level waterfall style delivery programs. Some specific programs that resemble this approach include the following examples:

- The federal government offers Supplemental Security Income (SSI) to those with a disability or who are 65 or older but reduces benefits by an equal amount that an individual receives from Social Security retirement, survivor, or disability benefits as well as from other non-work sources like unemployment insurance or pensions.
- Some households are eligible for health insurance provided through government programs like Medicaid, Medicare, Children’s Health Insurance Program (CHIP), or TRICARE or through tax-subsidized employer-sponsored plans. Households not eligible for affordable health insurance that provides minimum value through a government program or employer-sponsored plan may be eligible for premium tax credits in their state’s Affordable Care Act (ACA) health insurance exchange. While some people are dual-eligible for both Medicaid and Medicare, typically households are only eligible to receive subsidized health coverage through a single program. However, some technically eligible for coverage through one option like Medicaid may still face enrollment barriers under that option, but because of that eligibility are ineligible for another option like premium tax credits.

A waterfall approach would likewise utilize multiple programs to reach a larger set of households and would likewise restrict the ability of households to receive cumulative benefits from multiple programs. To maximize coverage, unlike the health insurance example, a waterfall approach—if found to be feasible—would allow New York residents eligible for a CCAA benefit but not receiving payments through a benefit program to receive the payment through tax filing. Some additional programs with delivery similar to a waterfall approach include:

- Idaho’s 2022 Tax Rebate: The Idaho State Tax Commission used information both from those filing income tax returns and from those applying for the Form 24 Grocery Credit to identify and distribute rebates.
- The Rhode Island H5869/S0662 Economic and Climate Resilience Act Bill: A waterfall approach was proposed that would implement a carbon pricing dividend through a refundable tax credit to state residents that file tax returns and through direct checks to state residents that do not file tax returns. It proposed requiring the director of revenue to “make every reasonable effort to ensure that every resident..., regardless of whether or not a particular resident files tax returns or actually owes taxes...receives a dividend.”

2.1.1.3 Addressing New Yorkers’ Energy Costs

This study recommends the CCAA benefit have a regional adjustment based on a measure of exposure to energy costs.

As discussed in Section 2.1 and Section 4.2, energy costs in New York State differ by region. Therefore, the CCAA benefit calculation should include an adjustment based on where recipients reside. This adjustment would have some level of regional aggregation (e.g., three regions such as upstate, New York City, downstate), because finer scale regional differences (e.g., Census tract) are likely to add administrative complexity without greatly improving the distribution of benefits beyond what a regional breakdown provides.

Publicly available data could be used to reasonably identify regional differences in exposure to energy costs for transportation and household space heating. For example, data from the National Renewable Energy Laboratory (NREL) State and Local Planning for Energy (SLOPE)² tool shows a strong regional correlation between total household energy and transportation burden and more Northern counties (colder; requiring more heat) and counties with rural tracts (greater need to drive long distances). This data is presented and discussed in more detail in Section 4.2. This type of data could be used to develop geographic adjustments that could periodically be updated. NYSERDA could potentially provide research and data analytic support to determine both the regional boundaries as well as the adjustment amount required to account for regional cost differences.

Supporting Precedents: The recommendation of a regional adjustment was developed based on, and supported by, the two existing and one proposed cap-and-invest dividend programs presented below. Each program’s regional adjustment is discussed in more detail in Section 3.1.3.3.

- Austria’s Klimabonus has a regional adjustment based on public transport access.
- The Northwest Territories (NWT) Canadian CAIP has a regional adjustment based on fuel consumption.
- The 2009 Waxman-Markey bill proposed a temporary regional adjustment that phased out over time.

² National Renewable Energy Laboratory. "Household Energy and Transportation Burden," *State and Local Planning for Energy*, accessed 12/11/2023, <https://maps.nrel.gov/slope>.

2.1.1.4 Progressive regarding income distribution

As discussed in Section 2.1, the CCAA benefit should be designed to deliver maximum benefits to low-income households. This study therefore recommends excluding high income households from receiving the CCAA benefit. Excluding high-income households would ensure that the CCAA benefit, which is based on a fixed fund in a given year, is not diluted by providing benefits to a larger number of households that includes those with a low energy burden. The CCAA benefit should also use a gradual phase out by adjusted gross income (AGI) above a determined income level, ensuring low-income New Yorkers are primary beneficiaries.

An additional reason for a per-capita calculation is to expand the equitable characteristics of the CCAA benefit. Energy costs may be somewhat larger for households with more individuals. Therefore, structuring the payment to be per-capita would allow the payment to increase for larger households and decrease for smaller households, ensuring a more equitable CCAA benefit. If energy costs to a household diminish at the margin of additional people in the household, the payment structure may consider a reduced value for children and or dependents.

This study does not recommend any specific thresholds or payments. Further analysis of data and consultation with administrative agencies would be required to set a specific cutoff for high-income earner exclusion, a progressive payment, and any adjustment for DAC households. This data analysis could ascertain the effectiveness of each of these options, as defined by their ability to maximally deliver benefits to low-income households.

Supporting precedents: Some programs reviewed suggest starting points to consider for the above recommendation. To address the question of marginal energy costs based on greater number of individuals in a household, the Austrian Klimabonus has a per-capita payment that allocates half amounts for children. Similarly, the Canadian CAIP pays the full amount to an individual, half to a spouse or common law partner, and allocates a quarter amount for each child.³ With goals of providing benefits to low- and moderate-income New York State residents, the Empire State Child Credit (ESCC), discussed in Section 3.2.3 and Section 4.4, has an income threshold that could be considered for the CCAA benefit.

2.1.1.5 Should not count as taxable income

New York State hopes to shield the CCAA benefit from inclusion in income for federal income tax purposes in order to provide the greatest energy cost reduction to New Yorkers.

The determination of whether CCAA benefits will be includable in federal income will rest with the Internal Revenue Service (IRS). Given the novel nature of the CCAA benefit, the State should consider engaging in discussions with the IRS as soon as practical to advise the IRS of the nature of the program and gain a full understanding of the IRS' policies and approaches regarding the treatment of government payments and its process for providing determinations as to the inclusion or exclusion of such payments as income. Ultimately, assuring that New York taxpayers and New York officials handle all CCAA

³ In 2020, the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) provided payments of up to \$1,200 per adult and \$500 per qualifying children under the age of 17.

benefits properly for federal tax purposes will require securing a private letter from the IRS setting forth its determinations.

Regardless of the ultimate determination of the IRS, New York State can shield all CCAA benefits from inclusion for *state* income tax purposes by State Legislative enactment.

2.1.1.6 Should not impact eligibility for means-tested benefit programs

This study recommends an annual payment, which aligns with the periodicity of a refundable tax credit, and is also more likely to be excluded as income for means-tested benefit programs. In particular, SNAP policy indicates that non-recurring lump sum payments are excluded as income – this includes income tax refunds, rebates, and credits.

However, this determination can only be made certain through further coordination between State agencies. In some cases, it may also be necessary to confer with federal program funding sources. This coordination is recommended to determine if there would be any impact to means-tested benefit programs. The coordination would likely need to involve consultation between agencies responsible for administering means-tested benefit programs that could be impacted. For example, coordination between New York State and the United States Department of Agriculture (USDA) may be needed to ensure the CCAA benefit can be excluded as income for Supplement Nutrition Assistance Program (SNAP). Similarly, consultation between New York State and Health and Human Services (HHS) and Centers for Medicare and Medicaid Services (CMS) may be needed regarding impact to Medicaid eligibility.

2.1.1.7 Administrative Considerations

This recommendation has several benefits for achieving the dual objectives of low administrative effort by recipients and low administrative costs for the State. The primary delivery option entertained (a refundable tax credit) would require notably less administrative effort than creating a new program because it would utilize existing State systems:

- Delivering the benefit as a refundable tax credit would leverage the many benefits associated with using the tax system, such as low administrative cost and higher degree of feasibility, that comes with linking benefit delivery to an existing implementation process.
- These options would also reduce the administrative burden for recipients, as there would be no separate application process for most beneficiaries.

Should a waterfall approach be deemed to be feasible, there are several additional administrative considerations that would need to be included in the implementation process. The key considerations are listed below:

- Outreach and education efforts would be needed to ensure that a supplemental application process would reach those who would not automatically receive the benefit. This would incur administrative costs.
- A deduplication process would be needed to ensure there are no double payments to those who both file taxes and would otherwise potentially receive benefits via a different channel.
- Administrators of the CCAA benefit would need to calculate the payments so that they have a buffer within the fixed CCAA budget to account for payments made via multiple channels, which

would add to administrative complexity, as well as undelivered checks, and other uncertainties in payments.

- NYSERDA would need to provide technical support to develop the specific regional energy cost adjustment.

2.2 Other Delivery Mechanisms

A variety of alternative delivery mechanisms were also assessed as part of this study.

Direct Payments

Automatic direct payments could potentially afford flexibility in timing and frequency of payments and increased salience for recipients (e.g., not “embedded” within a tax filing).

- Direct payments could occur at any point(s) during the year, and therefore ensure minimal delay between allowance auctions that raise revenue and the distribution of the benefit. This could reduce the lag between revenue generation and benefit distribution.
- Direct payments would create a clear connection between the receipt of the benefit and the incidence of energy costs. Tax credits and other measures that would reduce tax liability or be bundled in with other tax returns would have less visibility.
- Receiving direct payments would immediately provide cash in hand for all recipients, whereas a refundable tax credit, for recipients with tax liability, would only be a reduction in that liability. This could be perceived as less valuable by some recipients. However, because many taxpayers across the income distribution currently receive tax refunds, a refundable tax credit would similarly provide a direct cash payment tied to the overall tax filing process.

This option, however, involves significant administrative costs and feasibility challenges associated with instituting and implementing a new, dedicated payment. Some of those key challenges are described below.

- Because of the need to develop payment, customer service, fraud prevention, and other infrastructure, a direct payment option could entail a multiple year delay before benefits delivery can begin as compared to a refundable tax credit.
- There is a greater risk of misdirected payments due to aged data, which is avoided if the benefit is delivered simultaneously with tax filing.
- This approach creates increased burden for benefit recipients, who must proactively update their address and payment information with the direct payment provider.
- Administrative challenges include:
 - Would require standing up a significant new customer service infrastructure, which is avoided if benefit is delivered as part of typical tax payment process.
 - Fraud mitigation for a new program of this scale would be a significant undertaking.
 - The difficulty for the Department of Taxation and Finance to procure sufficient check stock to distribute checks at an appropriate scale for regular distribution. The associated printing for a program of this type and scale is significantly beyond the Department of Taxation and Finance’s present capability. Growing to a sufficient size would be a lengthy and expensive process.

Utility Bill Assistance

While utility bill assistance can have broad reach because most people are directly billed for electricity, there are multiple drawbacks:

- Utilities may have some data on income and other characteristics for households enrolled in existing assistance programs. However, using this option to deliver CCAA benefits would require substantial administrative cost to develop a more extensive income-based qualification regime so a progressive distribution could be designed.
- Utilities would also need to require renters and those in other arrangements where utility bills are not paid directly to self-identify to ensure they receive the benefit.

Other options outside of the CCAA structure, such as consigning⁴ NYCI allowances to electric utilities, could potentially deliver additional affordability benefits.

Non-Refundable Tax Credits

A non-refundable tax credit would pose challenges in relation to the core program objectives of progressivity and reach for low-income households. Tax filers that do not have tax liability, who would predominantly be low-income filers, would not qualify for a non-refundable tax credit.

Transit Vouchers

Transit vouchers would pose challenges in relation to the core objective of addressing energy cost because individuals using public transit will not face as high a cost as those driving vehicles and consuming gasoline. Only a fraction of households who drive would be readily able to shift to public transit as a primary mobility solution, even if they were provided with a voucher, especially in regions of upstate New York where access to public transit is limited or non-existent. In addition, this mechanism could not be used to address heating costs.

⁴ Consignment refers to the practice of delivering emissions allowances to a specific party, in this case to electric utilities for the specific purpose of energy affordability.

3 Program Research

The first stage of this study involved researching a broad range of existing and proposed programs, as well as relevant assistance benefit programs, and uncovering tax and legal interactions that might be applicable in order to create a set of key criteria to synthesize into final recommendations.

3.1 Survey of Past Precedents

This study reviewed existing and proposed programs that distributed benefits to households or residents to understand different program components and gather insights across design, implementation, and outcomes that could inform the distribution of the CCAA.

3.1.1 Programs Identified

This study identified and reviewed 29 different state- and national-level programs worldwide that distribute a form of money to their residents, including existing or proposed carbon pricing programs and other non-climate related relief funds distributed. The programs reviewed by the study can be broadly categorized into four groups, as discussed below. Appendix A includes a detailed summary of all the programs reviewed as a part of this study; the following section presents a brief description of a few of the programs most relevant to the objectives of this study.

The first category of programs includes existing climate pricing programs that were reviewed to understand how different regions and agencies designed and implemented programs in a way that allowed additional money from the respective carbon pricing programs to flow directly back to the people to compensate for the resulting price increases. A few important details of such programs are described below:

- **Regional Greenhouse Gas Initiative (RGGI):** The Regional Greenhouse Gas Initiative (RGGI) is the United States' first⁵ multi-state initiative to reduce power sector carbon dioxide (CO₂) emissions under which the eleven RGGI states (Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Vermont, and Virginia) establish a regional cap on the amount of CO₂ emissions that power plants can emit by issuing a limited number of tradable CO₂ allowances that are auctioned. All the RGGI states have individual discretion to invest RGGI auction proceeds according to state-specific emission goals. Approximately 13% of 2021 RGGI proceeds across all participating states have funded utility bill assistance and \$30 million in bill savings to energy consumers in over 81,000 households and 38,000 businesses. Some states' utility bill assistance programs under RGGI provide rate relief specifically to low-income families⁶, while other programs provide small on-bill credits to all consumers.

⁵ The investment of RGGI proceeds in 2021 (https://www.rggi.org/sites/default/files/Uploads/Proceeds/RGGI_Proceeds_Report_2021.pdf)

⁶ NJ RGGI defines low-income families as families with household income at or below twice the poverty threshold as determined by the United States Census Bureau (<https://www.nj.gov/rggi/docs/dashboard-user-manual.pdf>).

- **California Climate Credit:** The California Global Warming Solutions Act of 2006, AB32, requires California to reduce its overall emissions to 40 percent below 1990 levels by 2030. To achieve these goals, the California Air Resources Board (CARB) designed the Greenhouse gas cap-and-trade program, where the state’s investor-owned electrical distribution utilities and natural gas suppliers are also the participants. The utilities are required to use their GHG emission allowances auction proceeds to fund distributions to ratepayers to reduce the costs they pay that are associated with complying with the Cap-and-Trade regulation. Under the California Climate Credit program, all residential and eligible small business customers of an investor-owned utility in California will receive an equal amount in the form of utility bill assistance, regardless of the amount of energy they use through 2030.
- **Washington Climate Commitment Act:** In 2021, the Washington State Legislature passed the Climate Commitment Act (CCA), which creates a market-based carbon cap-and-invest program to reduce GHG emissions in the state. A portion of auction proceeds from the program is deposited into a Climate Commitment Account, which may be used to implement a refundable tax credit known as the Working Families Tax Credit (WFTC). Under the WFTC program, up to \$1,200 is available for nearly 400,000 eligible low-income households⁷, and the state is estimated to pay out \$230 million and \$257 million in refunds in 2023 and 2024, respectively. The State may appropriate additional funding to expand the benefit from CCA. All eligible individuals are required to apply separately for the credit through the WFTC application portal and file a federal tax return.
- **Canadian Climate Action Incentive Payment (CAIP):** The CAIP is a tax-free amount paid (direct payment method) quarterly to help individuals and families address the cost of federal pollution pricing. All the residents of Canadian provinces of Alberta, Saskatchewan, Manitoba, and Ontario are eligible for the credit and the program does not need a separate application, but households are required to file their tax returns. The credit consists of a basic amount (based on the province) and a 10% supplement for residents of small and rural communities.
- **Austrian Klimabonus:** In October 2021, the Austrian government introduced an “eco-social tax reform,” with a goal to achieve Net Zero by 2040. The government also instituted the Klimabonus program (direct payment method) to compensate for price increases and give additional money from the carbon pricing program directly back to the people in the form of a dividend. The Klimabonus is paid to all residents (with children getting half the amount) and does not require a separate application or filing of tax returns. The Klimabonus goes to about 9 million people and consists of a base amount (€110) and an additional regional allowance (€40, €75 or €110) to compensate those living in regions with poorer infrastructure and less public transport.

The second category of programs includes some of the proposed climate pricing programs reviewed that are either yet to be implemented or constitute studies and reports discussing or recommending policy

⁷ Washington’s Working Families Tax Rebate program’s eligibility is same as the federal Earned Income Tax Credit (EITC) eligibility requirements.

options for providing direct assistance to households through the distribution of emission allowances. A brief description of the programs reviewed under this category are included below:

- **American Clean Energy and Security Act of 2009 (HR 2454, Waxman-Markey Bill):** This bill would have expanded the EITC, would have provided direct cash payment for low-income households building on SNAP administration, and would have initially distributed geographically varying allowances to utilities and states that phased out over time as an equal per capita tax refund phased in. A study⁸ conducted on HR 2454 examines and compares several mechanisms policymakers could use to distribute emissions allowances or their proceeds to aid households. The main considerations outlined in the study are the ability to reach large numbers of households, the existence of an administrative infrastructure, the costs of distributing funds, and the ease of tailoring benefits to different consumer incomes and regions of the country.
- **Energy Innovation and Carbon Dividend Act of 2021 (HR 2307):** The Energy Innovation and Carbon Dividend Act of 2021 (reintroduced in the 118th Congress as HR 5744) includes a provision for distributing carbon fee revenues (via a direct pay method) from the program to all residents of the US with either a Social Security Number (SSN) or Individual Taxpayer Identification Number (ITIN). The bill proposes that the rebate amount should be distributed equally among all adults, with children under 19 years of age receiving half a share.
- **How To Design Carbon Dividends by Marron and Maag (2018):** The study⁹ mentions that all carbon dividend proposals are often based on two distinct perspectives. One view considers dividends as shared income from a communal property right (e.g., Alaska oil revenues) while the other considers the dividends as a way to rebate carbon tax revenues back to the consumers who ultimately bear the burden of the resulting increases in energy costs. These two views are sometimes complementary but have different implications for designing carbon dividends. The study proposes a hybrid approach combining beneficial features from both perspectives. It recommends paying dividends (direct payment method) to all individuals with a social security number who bear a material burden from a carbon tax. The study also recommended keeping the dividend amount equal for all adults, with all qualifying children receiving half that amount. The proposed dividends would be paid quarterly, tax free, and would not be counted as income for any means-tested benefit program.
- **Green Future Act of 2021 (Massachusetts H3292):** The proposed Massachusetts Green Future Act provides for regular payments, known as household green dividends (direct payment method), to low- and moderate-income (or bottom two quintiles) households¹⁰ to address any potential increase in household energy expenditure from the carbon pricing program. Under the act, up to 50% of the revenue generated by the program may be used for funding the household green dividend program, and no less than 95% of households in the first quintile will receive payments greater than their expected increase in energy-related costs, while those in the second

⁸ [Assisting Households with the Costs of a Cap-and-Trade Program: Options and Considerations for Congress - EveryCRSReport.com](#)

⁹ [How to design carbon dividends.pdf \(taxpolicycenter.org\)](#)

¹⁰ The Act defines low- and moderate-income households as the 40 percent lowest income households in the state

quintile will, on average, receive payments equal to or greater than the expected increase in energy-related costs. The Act also proposed that, to the extent possible, the dividends would not be counted as income for the purposes of state and federal tax liability or determining eligibility for state and federal benefit programs with income limitations.

The third category includes New York State's existing tax programs, which were reviewed by the study to understand how various low-income tax relief programs are currently designed and implemented in the state and might be used to inform various aspects of the CCAA benefit program, such as income eligibility, benefit phase-out, etc. A brief description of the programs reviewed under this category are included below:

- **New York State Real Property Tax Credit:** This program provides a refundable tax credit for all eligible New York state residents (homeowners or renters) with a household gross income of less than \$18,000. The tax credit can be as much as \$75 if all members of the household are under 65, and, if at least one member of the household is 65 or older, the credit can be as much as \$375.
- **New York State School Tax Relief (STAR) Credit:** The STAR program offers property tax relief through a refundable tax credit to eligible New York state individuals who own their primary residence where the combined income of the owner and their spouse is \$500,000 or less.
- **New York State and City Earned Income Tax Credit (EITC):** All New York taxpayers who qualify for the federal EITC are also eligible for a fully refundable state tax credit of 30% of the federal credit, reduced by the amount of any non-refundable New York State Household Credit the taxpayer receives. In addition to the state credit, New York City residents are eligible for a city tax credit, ranging from 10% to 30% of the federal credit depending on the filer's income.
- **Empire State Child Tax Credit:** All full-year residents of New York State with either a joint household income of less than \$110,000 (\$75,000 for single/head-of-household filing status) or who receive the federal child tax credit (CTC) are eligible for a refundable tax credit of whichever amount is greater – \$100 per qualifying child or 33% of the taxpayer's allowed federal CTC. The federal CTC (prior to 2017 tax law changes) begins phasing in at a rate of 15% of earned income in excess of the first \$3,000 up to a maximum of a \$1,000 credit per child and then phases out at a rate of 5% of income in excess of \$110,000 (\$75,000 single filing status).

The fourth and last category of programs includes other tax-relief and benefit programs that are not directly linked to a climate pricing can provide useful information in understanding how other tax relief programs are designed around the country to ensure equity and an expansive reach. A brief description of the programs reviewed under this category are included below:

- **Alaska Permanent Fund (APF):** The APF is a constitutionally established permanent fund managed by a state-owned corporation, the Alaska Permanent Fund Corporation (APFC) and was established in 1976. It was designed to ensure at least 25% of the money generated from the State's oil and gas reserves would be put into a dedicated fund for future generations who would no longer have that resource. The funds are equally distributed among all Alaska residents via the

Permanent Fund Dividend (PFD) in the form of direct deposits or check payments payable to recipients 18 years or older (children's dividends are paid to legal guardians). The dividend paid counts as taxable income and to receive the dividends Alaskan residents must file one online or paper application per person for the PFD with the Alaska Department of Revenue (it is estimated that over 91% of the Alaskan population apply for the PFD every year).

- **California Middle Class Tax Refund (MCTR):** The MCTR was a one-time tax-free refundable tax credit to provide economic relief to Californians in 2022. The MCTR was issued either by direct-deposits or debit cards to all California tax filers in 2021 who had an income of less than \$250,000 for single filers and \$500,000 for joint filers. The total amount issued under the program was \$9.2 billion dollars, benefiting almost 32 million taxpayers and their dependents.
- **Hawaii Act 115 Refund:** Act 115 provides a one-time constitutional refund to each qualifying resident taxpayer who filed an individual income tax return in Hawaii in 2021. Each individual represented on a tax return (taxpayer or dependent) received an automatic, tax-free, refundable tax credit of \$100 or \$300 depending on the filing status and household income.
- **Fair Fares NYC:** This city program was created to help New Yorkers with low incomes¹¹ manage their transportation costs. Using the Fair Fares NYC MetroCard, eligible New York City (NYC) residents receive a 50% discount on subway and eligible bus fares through a transit voucher program. To participate in the program, eligible individuals must fill out an application, then the Fair Fares NYC MetroCard will be mailed to their mailing address. To date, around 310,000 NYC residents have enrolled in the program.

3.1.2 Program Data Collection

The programs identified and reviewed by this study were assessed by the same set of criteria, including distribution mechanisms and parameters, recipient characterization, eligibility, and administrative framework as presented below. This was useful to understand what acceptable program designs and implementation options have already been tested and tried across the globe.

- **Distribution Mechanism** – the mechanism that was used to distribute funds, e.g., refundable tax credits, direct payment, utility bill assistance, transit vouchers, etc.
- **Recipients** – who the program targeted as recipients, e.g., individuals, households, tax units.
- **Eligibility Determination** – the income levels, residency, ages, and tax filing status related eligibility requirements of the program.
- **Size of Payments** – the amount that the program paid to eligible entities and how it was determined.
- **Number of Recipients** – the size of the recipient pool.
- **Provisions for Equitable Distribution** – the mechanisms that the program had in place to ensure equitable representation of low- and middle-income communities.

¹¹ The Fair Fares NYC program is open to low-income New York City residents at or below the federal poverty line (earning an annual income of less than \$12,880 for an individual to \$26,000 for a family of four)

- Frequency of Distribution – the frequency of distribution of the payments, e.g., annual, quarterly, etc.
- Geographic Differences in Size of Payment – if the program payment varied by geographical regions to account for differences in socioeconomic conditions, energy consumption pattern, etc.
- Awareness of Potential Participants in the Program – how aware the potential recipients of the program were.
- Detail on the state or federal agencies involved with disbursing funds -- what agencies were involved in administering the distribution of funds.
- Participant Effort – what recipients need to do to receive funds.
- Administrative Cost – what the state or county needs to do to deliver funds.

3.1.3 Findings

The programs reviewed by this study were further analyzed by summarizing the programs using their key structural and operational components as identified in Section 3.1.2. This helped identify trends and commonalities across the programs in terms of distribution methods, eligibility criteria, accessibility, administrative burdens, etc. as discussed below:

3.1.3.1 What has been done to have expansive reach?

The programs reviewed by the study used varying approaches to make sure that they reached the target population to the greatest extent possible. There are very few programs with the intended scope of the NYCI CCAA program, but the ones that were closest in scope tend to employ distribution mechanisms like self-application, automatic enrollments using tax return filings, or utility bill assistance. The following section discusses the detailed approach used by such programs and their limitations, if any:

Under the APF, the Alaska Department of Revenue set up a separate application process, which is available both in an online and paper format, from January 1 to March 31 of each year. This was done to ensure anyone can apply for the dividend and enable the program to have an expansive reach. According to the Department of Revenue data¹², almost 92% of the eligible population of Alaska applied for the fund in 2022, indicating that the extent of awareness about the program is quite high in Alaska. New programs using the same distribution approach as the APF would be expected to invest in education campaigns to generate awareness about the program and the need for self-application, at least in the initial years.

Several programs like the Canadian CAIP use an automatic eligibility criterion implemented through the tax system, ensuring automatic enrollment of all tax filers. This mechanism is easier to implement, as it eliminates the necessity of a separate self-application process, but since it excludes the non-tax filing population, who likely belong to low-income groups, the option is less favorable based on equity considerations. Provisions would have to be made to encourage non-tax-filers to file their tax returns to ensure a wider reach of such programs.

A few programs like RGGI and the CA Climate Credit program utilize utility bill rebates as a payment distribution mechanism. This option ensures that the program reaches all utility customers receiving a

¹² <https://pfd.alaska.gov/Division-Info/summary-of-dividend-applications-payments>

utility bill. However, living arrangements where utilities are included in the rent or shared group housing might create complications and result in the credits not reaching a certain portion of the population.

The Fair Fares NYC program uses transit vouchers as another mechanism to distribute rebates and/or credits. The program, however, only benefits people with access to public transportation, which typically consists of those in urban and city centers and excludes the rural population.

3.1.3.2 What has been done to reach low-income individuals in particular?

Studies have shown that lower-income households pay a larger share of their income toward the costs of their residential energy and for gasoline¹³, and have fewer financial resources to improve the energy efficiency of their household by purchasing energy efficient appliances or cars, which could help reduce high energy costs. Thus, it is important to ensure that the payments from the carbon pricing program reach low-income individuals. For example, the Washington CCA program achieves equitable distribution of funds by using the federal earned income tax credit (EITC) requirements to identify low-income households to benefit from the refundable tax credit paid under the program. There are also several existing New York State programs that target the low-income population of the state, including some tax credits, e.g., the New York State Household Credit, New York State EITC, and the Empire State Child Credit.

Empire State Child Credit: Targeting and Benefits

New York's Empire State Child Credit (ESCC) provides income assistance to lower- and middle-income New Yorkers with children. The program's structure is based on the pre-2017 federal Child Tax Credit (CTC), before changes were made by the 2017 Tax Cuts and Jobs Act (TCJA). The TCJA doubled the CTC's maximum credit amount, from \$1,000 per child to \$2,000, and raised the income threshold at which the credit begins to phase out from \$110,000 for joint filers to \$400,000. The TCJA excluded many non-citizen families from program benefits.

New York responded to the TCJA by decoupling from the reformed CTC and retained ESCC's pre-TCJA structure.¹⁴ New York families eligible for the pre-TCJA CTC receive 33 percent of their federal credit (as it would have been calculated prior to 2017) or \$100, whichever is greater.

Like the federal Earned Income Tax Credit (EITC), the CTC, both before and after the TCJA, excludes the lowest income families. The pre-TCJA CTC begins to phase-in for families with earned income above \$3,000. For families with earned incomes above this threshold, the credit phased in at a 15 percent rate – families' credits equaled 15 percent of earnings above \$3,000 until reaching the maximum value of \$1,000 per child. This maximum credit level is reached for one-child families earning \$9,667. The credit remains at this maximum value until reaching an income of \$110,000 for those married filing jointly and \$75,000 for single filers. At this threshold, the CTC begins to phase-out at a rate of \$50 for every additional \$1,000 of income above the threshold. Therefore, the CTC is completely phased-out for one-

¹³ How high are household energy burdens? [u2006.pdf \(aceee.org\)](#)

¹⁴ Schuyler Center for Analysis and Advocacy, "Strengthening the Empire State Child Credit to Reduce Poverty Among the Youngest New Yorkers" (April 2019), <https://scaany.org/wp-content/uploads/2019/04/One-pager-Expanding-the-Empire-State-Child-Credit-April-2019.pdf>.

child joint filers with income above \$130,000.¹⁵ The pre-TCJA CTC is fully refundable – that is, families receive the full value of the benefit as a tax rebate even if it exceeds their total federal income tax liability.

3.1.3.3 What has been done to vary payments by geography?

A single payment amount approach may not be appropriate for programs distributing payments across a large geographic area due to differences in geography, socioeconomic characteristics of the population, preexisting energy consumption patterns of the households, and other factors. This section briefly describes the different ways geographic payment has been implemented by the programs studied.

Austria has implemented regional sliding payments to consider the differences between urban and rural areas and the quality of transportation in those areas. Public services such as secondary schooling, hospitals and district authorities are also taken into consideration. The purpose of the Klimabonus is to compensate residents for the higher energy costs and promote climate-friendly behavior. However, there are communities where it is difficult to switch to climate-friendly alternatives. In rural areas with less public transit, residents tend to drive more, use more vehicle fuel, and spend more on energy. To compensate for this regional difference, a regional allowance is added to the base payment. The regional allowance compensates those living in regions with poorer infrastructure and less public transport. Statistik Austria, the organization in charge of defining the regional categories, has identified four categories, primarily based on urban and rural areas crossed with public transportation quality. The urban and rural classification by Statistik Austria is done based on several factors, such as accessibility to a regional core zone, tourism, population density, and time taken to reach the core zone. The final classification is based on the urban and rural class and the public transportation quality class assigned for each building. People living in rural areas who rely heavily on cars receive a higher amount than people living in urban centers who are able to commute via public transportation. In 2023, the base amount available to everyone was 110 Euros. The regional allowance varies from 0 to 110 Euros for the four categories.

Another program that provides payment based on geographic differences is the Canada CAIP program. In addition to a base amount, the program provides a rural supplement of 10% of the base amount for residents of small and rural communities. The supplement applies to the residents of Alberta, Saskatchewan, Manitoba, Ontario, Nova Scotia, Newfoundland/Labrador, and New Brunswick whose primary residence is outside a Census Metropolitan Area (CMA). All residents of Prince Edward Island are eligible for the rural supplement.

Unlike the other provinces, the Government of Northwest Territories (GNWT) in Canada has implemented a different method to address benefit distribution. The GNWT provides its residents with a Cost of Living Offset (COLO) based on the individual's community of residence. The territory is divided into three zones based on household heating fuel use. In addition to a baseline COLO, residents receive an additional COLO based on the zone they live in. Residents living in areas with higher heating fuel usage

¹⁵ Congressional Research Service, "The Child Tax Credit: Selected Legislative Proposals in the 116th Congress" (August 2020), <https://crsreports.congress.gov/product/pdf/R/R46502>.

receive a higher COLO amount. These payments are quarterly and increase in step with the increase in carbon tax.

The Waxman-Markey American Clean Energy and Security Act of 2009 included temporary geographic-based benefits in its distribution of revenues to residents as part of its proposed cap-and-trade program. The benefit would be allocated to states and local gas and electricity distribution companies based on carbon content of energy and amount of energy delivered. From 2012 to 2030, the proposed geographic-based benefit would phase out to zero as an equal per capita benefit would phase in.

3.1.3.4 What are the different ways programs have leveraged existing, or new, agencies to distribute payments?

To distribute payments, programs must identify those eligible, determine how much each recipient is due and where to send each payment, obtain the funds to distribute, and deliver the payments. Programs distribute payments in different ways but typically employ some degree of data sharing and cooperation across agencies to utilize existing data collection and payment distribution processes, unless a single agency already has all the necessary data and payment distribution infrastructure. The following programs illustrate some of these approaches:

- APF created a new entity to invest oil revenues but leveraged the existing Alaska Department of Revenue to process applications and distribute dividends from the fund.
- Australia's Clean Energy Act of 2011 leveraged the already existing Centrelink (run by the Services Australia agency), which already provided nearly all income support payments in Australia, to provide a clean energy supplement. Australia provided the clean energy supplement effectively as a percentage bonus on top of a person's existing income support payment.
- Austria's Klimabonus payments are made by the Federal Ministry for Climate Action, Environment, Energy, Mobility, Innovation, and Technology. It receives residence registration data from the Federal Ministry of the Interior, international account number and Family Allowance data from the Federal Ministry of Finance, other account details from the Federal Pension Fund, and mobility disability data from the Federal Ministry of Social Affairs, Health Care, and Consumer Protection. Recipients must enter their bank details on FinanzOnline to receive their Klimabonus as a direct deposit. Statistik Austria evaluates categories to calculate the regional allowance.
- California's cap-and-trade program issues free allowances to the utility sector, but the utility must sell the allowances at auction and distribute the resulting revenue to customers as a climate credit on their utility bills.
- California's Franchise Tax Board (FTB) used tax return information to identify residents eligible for a tax refund and to determine the amount of the tax refund. FTB partnered with a private debit card service, Money Network Financial, to distribute payments via debit card. Hawaii and Idaho's tax departments used tax return information to directly distribute tax refunds/rebates to their residents.
- Washington State's cap-and-invest program is run by the Department of Ecology, which distributes a portion of the allowance auction proceeds toward a Climate Commitment Account

that funds various programs. The Working Families Tax Credit is an eligible recipient of these funds and is administered by the Department of Revenue.

3.1.3.5 Distribution Mechanisms

Programs can be grouped into one of four delivery options: (1) tax credits; refundable and non-refundable, (2) direct payments, (3) utility bill assistance, and (4) vouchers. The following section details these options:

Tax credits reduce a tax filer's tax liability by the credit amount. A non-refundable credit, like New York's Household Credit, only reduces a tax filer's positive tax liability up to the credit amount. This prevents non-refundable credits from benefiting low-income people who may have little or no positive tax liability to address. By contrast, a refundable credit reduces tax liability by the full amount of the credit. If the resulting tax liability is negative, a refundable credit refunds the excess credit amount to the filer. Hence, a refundable credit could potentially reach the entire population, including low-income residents, but in practice, many lower income people fail to file and claim refundable credits for which they are eligible. Examples of refundable tax credits include:

- EITC
- Child Tax Credit
- Making Work Pay Tax Credit in 2009 and 2010
- New York State's Real Property Tax Credit

Direct payments provide cash or a cash equivalent directly to individuals or households, typically via direct deposit, check, or debit card. Direct payments may be distributed by a standalone program or may be part of a larger program. Depending on the distributing agency's access to data and administrative resources, direct payments have the potential to target benefits on specific criteria or to reach a broad share of the population, including lower income residents who may not file taxes. Examples of these payments include:

- APF
- Canadian CAIP
- Austria Klimabonus
- Social Security retirement, disability, and survivor benefit payments
- SSI and State Supplementary Payments (SSP)
- Temporary Assistance for Needy Families (TANF) and other public assistance
- Low-Income Heating Assistance Program (LIHEAP) Heat & Eat

Vouchers provide payment assistance toward a specific set of expenses, such as transportation, housing, food, or health care. While assistance is limited to a specific category of expenses, recipients may choose which eligible goods and/or services to apply the voucher toward. Vouchers may entail some additional administrative complexity to establish eligible expenses. If the voucher is too limited in what recipients may apply it toward, recipients may be unable to make use of it. Some examples include:

- Transit vouchers: recipients receive transit cards at no cost to increase access to various transportation types -
 - Seattle Housing Authority (SHA) Transit Pass Program

- Los Angeles Department of Transportation (LADOT) Universal Basic Mobility Pilot Mobility Wallet Program
- Fair Fares NYC
- Housing vouchers: recipients receive assistance paying housing costs -
 - Section 8 Housing Choice Vouchers
- Nutrition assistance: recipients receive an electronic benefit transfer (EBT) card at no cost, which can be used to purchase groceries and select other basic items -
 - SNAP
 - Women, Infants, and Children (WIC)

Utility bill assistance generally provides rebates that reduce a household’s utility bill. Utility bill rebates are effective at reaching households that pay their utility bills directly but miss households where utility bills are included in the household’s rent obligations. While an equal benefit per customer may be administratively easy to implement, making payments progressive would require a larger administrative role and cost for a government agency. Examples include:

- California Utility Rebates from Cap-and-Trade program
- Utility rebate programs in RGGI states of Maryland and New Hampshire
- LIHEAP

3.2 Assistance Benefit Program Review

A key part of this study was to closely examine the types of benefits New York State delivers along with the recipients of those benefits to identify potential areas of interaction with a CCAA benefit distribution, or opportunities to leverage broader, more equitable reach through the established infrastructure. To determine which programs to consider, we looked at programs that touch many New Yorkers, provide substantial benefits, and serve the most vulnerable. Efforts to analyze and summarize insights from the State’s assistance benefit programs are detailed in the following section.

3.2.1 Programs Identified

This study identified and reviewed 14 of the largest programs where benefit eligibility could potentially be impacted by NYCI’s CCAA benefit as well as programs that offer more insight on reaching low-income residents with minimal administrative burden.

The programs reviewed include Childcare Assistance; LIHEAP; Medicaid; New York State Safety Net Program; NY Energy Affordability Program; Rental Assistance; Section 8 Housing; Social Security; SNAP; SSI; Supportive Housing; TANF; The Office for the Aging (NY); Unemployment Insurance; and WIC.

3.2.2 Program Data Collection

Several key qualities were derived from each of the relevant assistance benefit programs identified, including eligibility determinations, application processes, distribution parameters, beneficiary characteristics, and New York State program statistics.

- Application process – application type (paper or online) and submission requirements (mail, in-person, phone, etc.).

- Application Process - how often must beneficiaries recertify.
- Application Process - what is the time from application to receipt.
- Beneficiary Characteristics – beneficiary definition (household, family, individual).
- Distribution Parameters – how and to whom the benefit is delivered (cash card, check, payment to vendor, etc.).
- Distribution Parameters - what is the frequency the benefit is delivered.
- Eligibility Determination - income definition for New York and nationally for federally funded programs.
- Eligibility Determination - income level for New York and nationally for federally funded programs.
- Program Statistics - average benefit amount.
- Program Statistics - how many beneficiaries are eligible in New York.
- Program Statistics - how many beneficiaries are enrolled in New York.

3.2.3 Findings

The review of New York's assistance benefit program landscape revealed that certain programs pose risks of disrupted eligibility from additional income while others provide insight on New York State residents who might best gain from the CCAA benefit.

3.2.3.1 Risks to Eligibility

More specifically, the review of assistance benefit programs found that program eligibility and benefit amounts could be affected by additional income through the CCAA benefit, however the extent and scope of the impacts differ by benefit type as well as the frequency of the payment. In the case of almost all federal programs, the CCAA benefit is likely to be considered income if delivered on a regular (monthly or similar) basis; a one-time payment that is framed as a refund or reimbursement is less likely to be characterized in this way. Further, the more control the State has over program design, the more there is an opportunity to exempt the CCAA from being counted as income. This would include programs that are State funded or Federal block grants that are State designed within federal guidelines.

3.2.3.2 Assistance Benefit Program Pathway

The review of assistance benefit programs also revealed a variety of distribution methods. Some have existing infrastructure that would enable New York State greater program reach, while not needing a whole new process and system. While some programs help by paying a bill for a low-income household, such as back rent or medical care, others provide funds directly to people to spend at their discretion with certain rules, such as SNAP. When funds are provided directly to individuals, this is most often and most reliably done by transferring funds to electronic benefit transfer (EBT) cards. One option for consideration is for CCAA is to use this process to provide the CCAA on the same EBT cards that individuals currently hold.

3.3 Tax Interactions and Considerations

One of the primary objectives of the CCAA distribution is to ensure that the benefits are not considered as income subject to federal income tax or to interact with means-tested government assistance programs as described in the previous section, to the extent possible. To address that aim, the following research was conducted.

3.3.1 Federal Laws on Income for Federal income Tax Purposes

The intended scope of the federal income tax is to reach all income received by taxpayers unless there is a specific statutory exemption or administrative exception that excludes a particular type or source of income. The primary focus of the research was on the generally applicable income inclusion rules and the exceptions to inclusion that have been developed over time by the Internal Revenue Service (IRS)¹⁶

3.3.1.1 General rule

The Internal Revenue Code (IRC) provides that the starting point in computing federal income tax liability is “gross income” which is defined as:

“Except as otherwise provided in [the IRC], gross income means all income from whatever source derived, including (but not limited to)” followed by a listing of 14 types of income ranging from compensation for services to discharge of indebtedness.¹⁷

The U.S. Supreme Court has confirmed the breadth of the income tax by holding that Congress intended to exert “the full measure of its taxing power,”¹⁸ in enacting the federal income tax, and stating that income for tax purposes is any “undeniable accession to wealth, clearly realized, over which a taxpayer has complete dominion.”¹⁹ State and local government payments, including future CCAA benefits, are subject to this general rule unless an exception exists.

3.3.1.2 Exceptions to the general rule

In its capacity as the agency charged with administering the IRC, the IRS has developed three exceptions to the general rule that can be applicable to certain types of state and local government payments to individuals. While developed by the IRS in its administrative capacity, these exceptions have been upheld generally by the judicial branch as valid. The exceptions deployed by the IRS are (a) state tax refunds, (b) payments to promote the general welfare, and (c) disaster relief payments. The first two are potentially applicable to CCAA benefits, depending on the delivery model(s) adopted.

State tax refunds

¹⁶ The benefits could be excluded by federal law, but that is beyond the scope of this project.

¹⁷ IRC section 61(a).

¹⁸ *Helvering v. Clifford*, 309 U.S. 331 (1940).

¹⁹ *Commissioner v. Glenshaw Glass Co.*, 348 U.S. 426 (1955) involving the inclusion of fraud and anti-trust recoveries in income.

The basic underpinning of the tax refund rule is that a refund of tax by a state or local government is a repayment of amounts the taxpayer overpaid the State²⁰ compared to their actual liability. It is not an accession to wealth, in the terms of the Supreme Court, in that the taxpayer's overall resources are not increased.²¹ In other words, if a taxpayer had an income tax liability of \$5,000, but had \$7,000 in withholdings throughout the year, the \$2,000 refund received from the State would not be included in income for the following tax year as it was a refund of overpaid tax that had been subject to tax in the prior year.

In applying the state tax refund rule, the terminology used by the state in referencing a particular payment is not binding on the IRS. The Service will instead look to the substance of the payment to determine if it is an actual refund of a state tax overpayment. This is particularly relevant in the context of a "refundable" state tax credit, e.g., a credit in which the taxpayer may receive an amount exceeding their actual tax liability against which the credit is taken.

In *Maines v. Commissioner*, the U.S. Tax Court examined the applicability of the state tax refund exception to New York State income tax credits available for certain state income tax credits granted under the New York Economic Development Zones Act (subsequently amended to the EZ Program). Two of the credits (the EZ Investment Credit and the EZ Wage Credit) allowed a credit that exceeded the actual state income tax liability of the taxpayer, e.g., the excess was paid to the taxpayer.²² To the extent that the credit was allowed to exceed the taxpayer's income tax liability, despite being termed an overpayment by the state, the court determined it did not constitute a refund of a tax overpayment. Instead, it was a transfer from the state to the taxpayer and an "accession to wealth,"²³ and therefore, taxable as income.

Refunds of state tax overpayments may, however, be included in gross income if they run afoul of the "tax benefit" rule. Under the tax benefit rule, a state tax overpayment will be considered as gross income for federal income tax purposes if the taxpayer received a tax benefit from having deducted the state tax and reduced their federal liability in a prior year. In other words, if a taxpayer received a state income tax refund in 2023 for tax that they deducted and used to reduce their federal liability in 2022, they must include that refund in their gross income on their 2023 federal income tax return.

Under current federal law, most state tax refunds of overpayments will not be included in federal income. First, refunds to taxpayers that file using a standard deduction (about 70 percent of all filers) will not be includable in federal income as they were, by definition, not deducted from federal income tax. Second, under the JCTA, the aggregate amount of state and local tax that may be deducted for federal income tax purposes is \$10,000 for a married couple filing a joint return (\$5,000 on a single return), thus significantly reducing the number of taxpayers affected by the tax benefit rule.

For purposes of a CCAA benefit administered as a refundable credit against New York State personal income tax, the state tax refund exception would seem to apply to the extent the benefit paid via the credit

²⁰ When the term "state" is used in a general manner, it should be interpreted as applying also to local government taxes and local government tax refunds.

²¹ See Revenue Ruling 70-86, for example.

²² A third credit (EZ Real Estate Credit) was limited to the taxpayer's liability. While the credit was found to qualify as a tax refund, the actual exclusion from income was disallowed because of the tax benefit rule. See below.

²³ *Maines v. Commissioner*, 144 T.C. 123 (2015).

does not exceed their actual state income tax liability, otherwise the refund is not subject to the tax benefit rule.

General welfare exception

The IRS also provides an exception to the income inclusion rule for certain state payments to individuals made under social benefit programs for the promotion of the general welfare. The determination of programs that qualify for the general welfare exception is made by the IRS following what it terms a “complex and fact-intensive inquiry that depends on a number of considerations.”²⁴ To meet the general welfare exception, a state payment must (a) be paid from a governmental fund, (b) be for the promotion of the general welfare (e.g., based on the need of the individual or family receiving such payments, and (c) not represent compensation for services.²⁵

In the context of the CCAA benefits, the central question is the criteria used by the IRS to determine whether a payment qualifies as promoting the general welfare. Other than in the context of a specific ruling, the IRS has primarily relied on the language of a qualifying payment being based on “the need of the individual or family” receiving the payment.²⁶ Generally speaking, that determination requires a consideration of the income level of the recipient compared to the overall population. Those programs found to fall within the general welfare exception have been directed to low- and moderate-income households and are required to be used for a particular purpose, such as energy cost assistance, medical needs, home rehabilitation (grants to low- and moderate-income to meet building code requirements or make energy conservation improvements or for job retraining), as well as to individuals with specified disabilities, or for relief from natural disasters. Requests for general welfare exceptions that have been denied have been generally available to recipients without regard to the income level of the recipient. No specific income level that will qualify for the exception has been provided by the IRS.^{27, 28}

As noted, qualification of a payment for the general welfare exception requires a determination by the IRS, particularly in the context of a novel program such as the CCAA benefit, to ensure that both CCAA benefit recipients and the State of New York are aware of their obligations under the IRC. Such a ruling takes the form of a private letter ruling to an entity with a vested interest in the outcome of the ruling. For the CCAA, New York State may be the requesting entity to be certain of its information reporting obligations, if any, under the IRC. (See discussion below.)

The process for requesting a private letter ruling is spelled out in an annual revenue procedure.²⁹ A private letter ruling submission is made to the Office of Chief Counsel and must contain a complete statement of the facts and other information regarding the nature and details of the request, the actual question and ruling sought, and such analysis as is relevant among other items. A checklist of required items is

²⁴ See, for example, IRS Notice 2023-53, August 30, 2023.

²⁵ *Id.*

²⁶ See also IRS Private Letter Ruling 123583-09, October 21, 2009, Number 201004005, released January 29, 2010, in which the listing was expanded to include financial status, health, educational background, or employment status of the recipient.

²⁷ A broader listing is provided in Section 3.3.3 of the report.

²⁸ For a more complete discussion of the general welfare exception, see Jasper L. Cummings, *The General Welfare Exclusion*, Tax Notes Federal, Vol. 169, October 19, 2020, pp. 441-455.

²⁹ The most recent was issued as Revenue Procedure 2023-1 in January 2023. An updated version should be expected in early 2024.

normally provided. At the discretion of the IRS, discussions of substantive issues involved in a ruling request may occur between the IRS and the taxpayer or their representative. Such discussion will likely be helpful here given the unique and novel nature of the CCAA program. Any guidance provided during such discussions is not binding on IRS but can be instructive in shaping a CCAA benefit program. A formal written ruling will not be issued until a complete set of facts (i.e., an enacted program) is available and provided to the IRS.

In the context of the CCAA benefit program, the general welfare exception is relevant to the extent that the program is administered as a direct payment program, either to all or some part of the recipients. To the extent the CCAA benefit is not found to qualify under the general welfare exception, the payment would likely to be considered a gross income for federal income tax purposes.

In addition, the question of whether the CCAA benefit qualifies under the general welfare exception may be relevant if all or part of the CCAA benefit program is administered as an income tax refund. Specifically, if the IRS takes a position that to the extent the CCAA-related income tax credit exceeds a recipient's tax liability constitutes gross income, it will likely be necessary to qualify such payments for exclusion under the general welfare exception.³⁰

It should be noted that to the extent that all or a portion of the CCAA benefit is not considered gross income for federal tax purposes, that income would also not likely be considered as income for New York tax purposes, without some legislation action by New York State. Conversely, if some portion of the CCAA benefit is considered as income for federal tax purposes, New York State could, through state law, exclude that portion of the benefit from income for state tax purposes.

Disaster relief payments

The third exception to the income inclusion rule in IRC section 61(a) is for disaster relief payments. Under the exception, qualified disaster relief payments to individuals are not included in income for federal tax purposes. This exception is not relevant to the CCAA program and is not discussed further.

3.3.2 Information reporting

IRC section 6041 requires that every person engaged in a trade or business that makes payments of \$600 or more in a taxable year to another person is required to provide a report on such payments to the Secretary of the Treasury and such person. The report must include identifying information about the payor and the payee, as well as the amount of such payments. This information reporting is made applicable to federal, state, and local governmental units making such payments under federal income tax regulations.³¹ The report to the individual is on a Form 1099-G.

³⁰ New York State currently administers several refundable income tax credits, including a child and dependent care credit, earned income credit, the noncustodial parent earned income credit, and the Empire State child tax credit. The refundable portion of these credits are reportedly not included in gross income. Given the unique nature of the CCAA program, discussions with the IRS may be advisable to ensure certainty to both the recipients and the issuing entity.

³¹ 26 CFR section 1.6041-1(i).

IRC section 6050E provides that any person who receives a refund of state income taxes (or allows credits or address with respect to such taxes)³² of \$10 or more in a calendar year must file a return with the Secretary of the Treasury and the person receiving the refund, credit, or address. This information is also provided on Form 1099-G. The regulations further provide that if the person responsible for making the refund verifies that the individual receiving the refund did not claim itemized deductions on their federal tax return, the state need not furnish a copy of the Form 1099-G to the individual.³³

With respect to CCAA program, the information reporting regulations are relevant if the CCAA benefit is administered as a direct payment program. In addition, under an income tax credit program, to the extent that any CCAA benefit exceeds the actual liability of the recipient, and that income is considered as gross income for federal tax purposes, the reporting obligations under IRC section 6041 may apply.

3.3.3 Examples of Income Exceptions

The discussion below summarizes a range of IRS rulings and determinations that address the issue of whether a variety of state and local government payments are to be considered as income for federal tax purposes under the general welfare or some other exception to the general inclusion rule. Due to the nature of the generally available public documents, it is not possible to determine specific income levels or coverages that are associated with some of the programs, particularly the more recent private letter rulings.

3.3.3.1 Government payments qualifying for exclusion

- Payments to propane dealers and utilities on behalf of disabled or low income, elderly (defined), or cash payments to qualified individuals purchasing from others with substantiation. Rev. Rul. 78-170
- Payments by the New York Crime Reparations Board to qualified victims of a crime that have incurred certain out-of-pocket expenses or been unable to work for at least two weeks. Rev. Rul. 74-74
- Home rehabilitation grants to those living in certain distressed areas of the city. Rev. Rul. 76-395
- Certain federal interest assistance to qualified mortgages as determined by HUD under the National Housing Act. Rev. Rul. 75-271
- Grants to individuals under certain federal training programs when grants are to individuals in areas of substantial and persistent unemployment. Rev. Rul. 63-136
- Payments by Suffolk County, NY to aid in installing new or retrofitting certain types of systems with awards graduated by income and limited based on federal AGI as percent of median area income. Private Letter Ruling (PLR) 108847-19 (issued January 15, 2020) denial. PLR 100321-23, issued February 6, 2023 (revocation of prior PLR as to certain grants to certain specified income levels). [Redaction prevents disclosure of specific income levels.]
- Payments to persons or care providers for aged, blind, or disabled persons that are coordinated with eligibility for three Medicaid programs. PLR 127776-15, issued March 1, 2016.
- In February 2023, the IRS issued a News Release announcing that the IRS would not challenge payments made under a variety of tax rebates and other reductions by over 20 states in 2021 and 2022 due to the COVID pandemic, inflation, and other reasons if the taxpayer did not include the payments as income on the 2023 federal income tax return. In making the blanket determination, the IRS noted that the fact-intensive inquiry necessary to make an individual final determination was too great and

³² 26 CFR section 1.6050E-1(b) defines “credit or address” to include an amount applied against an existing liability, available for application against a future liability of the taxpayer or otherwise available for use for the taxpayer’s benefit.

³³ 26 CFR section 1.6050E-1(k)(2).

there was a need for certainty for taxpayers as they filed their returns in 2023. Therefore, in the interests of sound tax administration, it determined it would not challenge returns that excluded the payments. IRS Release 2023-23, February 10, 2023. Discussed more fully in Notice 2023-56, August 30, 2023.

3.3.3.2 Government payments not qualifying for exclusion

- Payments by the State of Alaska to residents aged 65 years or more who have maintained domicile in Alaska for at least 25 years “to encourage continued residence.” The ruling notes that payments were made without regard to “financial status, health, educational background or employment status.” The enabling legislation specified the payment was not meant to be “public assistance.” Rev. Rul. 76-131
- Likewise, the APFD, an annual allocation to all Alaska residents based solely on residence, is not eligible for the exclusion. For 2022, the IRS did qualify the additional Energy Relief Payment that was paid with the PFD for the general welfare exclusion. (See discussion above of IRS Notice 2023-56.)
- Payments to businesses will not qualify under the general welfare exclusion. Payments from New York State to businesses undertaking efforts to rebuild near the World Trade Center did not qualify under the general welfare exclusion. Payments were not to an individual and were not based on individual and family needs. Rev. Rul. 2003-18
- State payments to individuals to aid in the purchase of products from a distressed industry important to the state economy were includable in gross income for tax purposes. The payments failed tests to qualify under the general welfare exception. While there were income limits on the program, a recipient had to have sufficient resources to purchase or finance the product in the first place, so it was not designed to assist those in financial need. Further, the proportion of residents that would have been eligible under the program was considered by IRS to have been too high to qualify for the general welfare exception in conjunction with the other conditions. (The exact levels and proportion of residents covered was not clear due to redaction of the publicly available version.) PLR 123583-09, issued October 21, 2009.³⁴
- On December 6, 2006, the Minnesota Department of Revenue announced that IRS had determined that tax rebates under a program enacted by the state legislature in May 2023 would be required to be included in income for federal tax purposes. The payments were available to all tax filers with incomes below \$150,000 (married, filing joint) and \$75,000 (all other filers). Minnesota excluded the income from the state return as part of the enactment. See Emily Hollingsworth, Minnesota DOR: Taxpayer Rebates Are Taxable at the Federal Level, State Tax Notes, Vol. 110, December 11, 2023, P. 796.

³⁴ It was also determined not to qualify as a ‘purchase price deduction,’ an issue not relevant here.

4 Synthesis Of Research

This section focuses on synthesizing findings across all three research areas (past precedents, means-tested benefit programs, and tax considerations) to identify key criteria, considerations, and potential design options for a CCAA distribution approach that meets program objectives while minimizing risks and burdens.

4.1 Consideration Criteria

The consideration criteria that follow from the research of existing and proposed distribution programs, New York assistance benefit programs, and tax interactions were synthesized to align with each of the CCAA program objectives as follows:

4.2 Geographic Variation

The various program options were assessed in terms of their variability by geography to ensure funds distributed are a function of the regional variation in energy costs. One of the factors used to account for regional variability is rural/urban differentiation. Different programs have provided supplements in addition to the base payment to compensate individuals living in rural areas. Differences in household energy consumption is another reason for the need of payments based on geographic variation. Household energy consumption is dependent on several factors, such as the number of individuals living in a household, climatic conditions of the area, intensity of use of vehicles, availability of public transportation, as well as others. It is important to take these differences into account and design the payment system accordingly. Programs that factor in these nuances are built on the premise that households that consume more energy due to regional differences should receive higher amounts compared to households that consume less.

The state of New York is diverse in terms of climate and geography. Most parts of upstate New York have long and cold winters with significant snowfall. The region includes several high elevation and colder climates including the Catskill Mountains, Adirondack Mountains, and Allegheny Mountains. Many counties in this region have a higher share of rural tracts. Downstate is comparatively warmer due to lower elevation and proximity to the Atlantic Ocean. The region, although it occupies a smaller geographic area, is more densely populated compared to upstate. There is also a difference in the public transit systems in the different areas of the state. Urban areas like New York City have a better public transit system, thus enabling residents to rely on public transit instead of driving for commute. Other cities like New Rochelle, Yonkers, Buffalo, and Rochester also have some public transit. An important indicator to assess the amount households spend on household energy needs, including vehicle fuel, is household energy and transportation burden. Figure 1 below shows the variation in the total household energy and transportation burden of different New York counties with the share of rural tracts in each county. Data on total household energy and transportation burden was derived from NREL's SLOPE database, while data on rural tracts was from New York State's DAC database.^{35,36} Counties like

³⁵ National Renewable Energy Laboratory. "Household Energy and Transportation Burden," *State and Local Planning for Energy*, accessed 12/11/2023, <https://maps.nrel.gov/slope>.

³⁶ [Disadvantaged Communities Criteria - New York's Climate Leadership & Community Protection Act \(ny.gov\)](#)

energy use and household income. Based on the data mentioned above, a three-region classification (upstate, downstate, NYC) would be appropriate, with NYC receiving the base regional allowance and upstate receiving the highest adjustment.

4.3 Broad Reach

The ability for program options to reach a broad base of the New York State population was also analyzed. Drawing upon American Community Survey (ACS) data and Federal Tax Filings data, New York State’s populations and household compositions were analyzed.^{37,38} With more than 19 million residents statewide and over 7.5 million households, New York has a very large population. Based on the past precedents reviewed in Section 3.1 and depending on the income eligibility criteria established for the CCAA, reaching millions of New York State residents through the CCAA would constitute it as one of the largest benefit distribution programs in the country—and the largest program in NYS. Despite half the population residing in NYC, the scale of the statewide totals underscores the immense reach required for benefit programs to impact residents in need across urban, suburban, and rural areas. Similarly, key household characteristics like average household size and median income show significant variance across different regions of NYS. According to 2022 ACS statistics, the average household size statewide is 2.6 people. However, this ranges from 2.1 persons per household in Manhattan and 2.3 or 2.4 persons per household in many upstate counties to over 3 persons per household in many downstate counties, such as Rockland. Understanding variances in household size across NYS’s regions is important when considering the unit of the recipient, being either the individual or the household, as well as incremental adjustments to a base benefit amount based on additional people per household. Similarly, differences in household size may be linked with energy consumption, as households with more people are somewhat more likely to potentially consume more energy and may face higher energy costs. Likewise, median household income statewide stands at \$75,910 but reaches above \$100,000 in affluent suburban counties like Nassau and Suffolk, while falling to roughly \$50,000 in rural counties such as Chautauqua and the Bronx remains the poorest county with median household income under \$45,000. Figure 2 and Figure 3 visualize these regional discrepancies for the household size and income distributions. As the CCAA benefits seeks to reach as many qualifying households as possible, crafting a program with broad reach that covers NYS’s population despite their wide diversity is crucial yet challenging.

³⁷ U.S. Census Bureau, 2022, 5-Year American Community Survey, 2018 – 2022.

³⁸ Internal Revenue Service (IRS), 2020, SOI Tax Stats – Adjusted Gross Income (AGI) Percentile Data by State.

Figure 2. Average Household Size for New York State and Regions

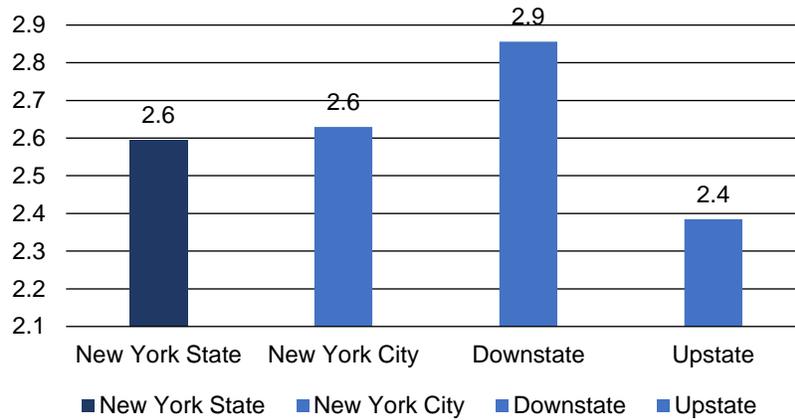
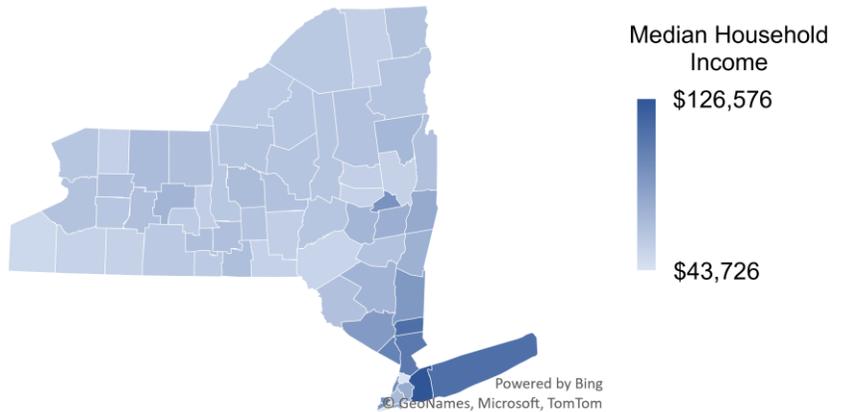


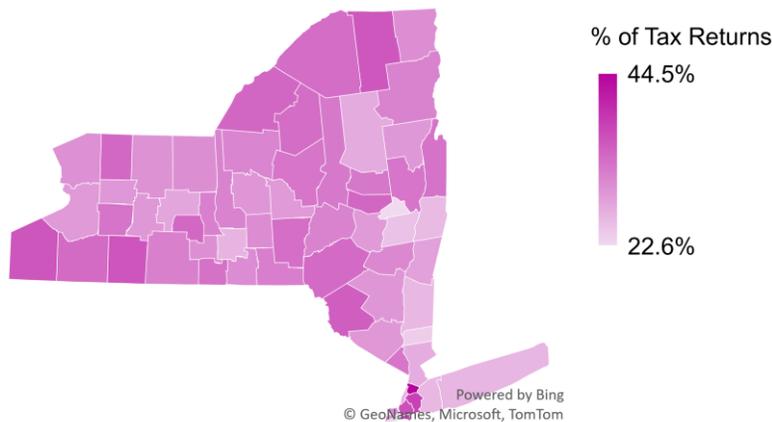
Figure 3. Median Household Income by County Across New York State



The ability for existing public assistance records to identify all low- to moderate-income residents statewide is limited. Although major programs like LIHEAP (serving 1.2 million NY households in FY2022), SNAP (2.3 million households in FY2023) and Medicaid (7.9 million individuals in FY2023) provide valuable assistance to millions of New Yorkers, these programs are nonetheless limited in reach, relative to the total number of low- and middle-income households as eligibility criteria disqualifies some and application processes hinder others from applying for the benefits.

The ability for some delivery mechanisms, identified in Section 3.1.3.1, to have expansive reach is in some cases, limited. Transit vouchers, such as the localized NYC Fair Fares program, are restricted to certain geographies or public transit systems. Similarly, the uptake of these programs remains low due to education and other barriers. For example, the Fair Fares program has 312,303 enrolled participants. State-wide, many lack access to transit and only an estimated 23% of workers use public transportation to commute to work, meaning a significant portion of the state’s population would not be covered if relying on such a delivery mechanism.

Figure 4. Percent of Tax Returns Filed with No Tax Liability



As discussed in Section 3.1, many programs with similar broad reach goals have used personal income tax filing data to identify and reach a large number of residents, such as the Massachusetts H3292 and the California MCTR. State or federal tax filings may be the most readily available data to identify and reach a large proportion of New York residents. Based on New York State Department of Taxation and Finance data, there were 9.4 million tax returns filed by New York residents³⁹ in tax year 2021, accounting for 16.8 million individual filers and dependents, or roughly 83.5% of New York State’s population. These records have their own limitations, such as excluding individuals not liable to submit a tax return due to their income or employment status. As depicted in Figure 4, a large portion of tax returns in New York do not have any tax liability, amounting to an estimated 31.8% of all New Yorkers. This is important to note when considering the viability of a non-refundable tax credit mechanism, as a non-refundable tax credit provides no benefit to those without tax liability. However, tax filing records still serve as the most comprehensive source that may broadly cover the vast majority of residents across New York. Furthermore, achieving a broad reach of recipients for the CCAA benefit may involve supplementing the tax filing records with public assistance recipient records to account for those who do not file taxes. More information on this proposed solution may be found in Section 2.1.1.

4.4 Equitable Distribution

The equitable distribution of a benefit to allocate larger sums to NYS’s low-income populations were evaluated across program options. The goal is to provide more support to those with greater need by ensuring that lower income households receive a higher benefit than those with higher incomes. While energy costs can be absorbed by higher income New Yorkers, they should be addressed for lower and moderate-income New Yorkers. Because the CCAA is not only an anti-poverty program, it should target higher incomes than most public assistance programs. The ESCC targets higher income thresholds than other income-tested public assistance programs administered by New York State. The income at which the ESCC begins phasing out for single filers (\$75,000) is close to the state’s median income. Because the ESCC threshold for joint filers is higher, more than half the state population would likely be eligible for an ESCC-based benefit that does not require the presence of children for eligibility. These income

³⁹ This data includes tax returns filed by full-year New York State residents only. Returns filed by part-year residents and full-year nonresidents were excluded from this analysis.

thresholds are much higher than those used by the EITC. The other New York State cash transfer program that targets relatively high incomes is the School Tax Relief (STAR) program. STAR, however, is only available for homeowners, who also must register for benefits. As such, it is not an applicable model for a CCAA benefit.

Adopting the structure of New York's ESCC could have the benefit of employing an established, widely popular program that targets lower- and middle-income New Yorkers. However, adapting the ESCC's structure for a CCAA benefit would require modifications to its treatment of the number of children, benefit phase-in, and, possibly, phase-out rate.

First, following the CTC, the ESCC allocates benefits for each child claimed in a tax filing unit. New York families earning between \$9,667 (for all one-child filers) and \$110,000 (for joint filers) receive the maximum benefit of \$330 per child. While household energy costs are likely higher for households with more children, the relationship between energy costs and number of children is likely not a primary driver of energy expenditures. Because the CCAA payments are meant to address energy costs, not the costs of raising children, it may be appropriate to increase benefit levels for households with children, but not base the benefit entirely on the number of children.

Second, the ESCC excludes the lowest income New Yorkers, phasing in the benefit for families with earned income above \$3,000. This phase-in followed the model of the EITC, an older tax credit created explicitly to incentivize employment, by progressively rewarding adults on their first few thousand dollars of earned income. Recent economic evidence has raised doubts about the EITC's success in incentivizing employment.⁴⁰ More importantly, the CCAA payment is intended to address energy costs for New Yorkers and has no mandate to influence labor market behavior. As such, a phase-in is not appropriate for the CCAA payment. Full CCAA payment amounts should be extended to households with low and no income.

Third, benefits cliffs present a general concern in the design of income-tested programs. Benefits cliffs describe situations in which an additional dollar of earned income can move a household above a program's eligibility threshold, causing them to lose program benefits, and leaving the household financially worse off. For this reason, benefits cliffs are a failure of policy design that penalize low- and moderate- income households for increasing their earnings and incentivizing households to remain below income eligibility thresholds unless their income would increase by enough to address the value of lost benefits. In general, benefits cliffs are a narrow issue in New York, as most major public assistance programs have been modified to phase out with income. While income phase outs may also create a disincentive for additional earned income – essentially taxing each marginal dollar of earned income at the program's phase out rate – this feature is unavoidable for income-tested benefits and an improvement of over abrupt benefits cliffs.⁴¹ The ESCC, following the CTC, has a phase out rate of 33% of \$50 for each \$1,000 of income above the phase out threshold (\$75,000 for single filers, \$110,000 for joint filers). Households at these income levels are unlikely to receive other income-tested benefits affected by a

⁴⁰ Henrik Kleven, "The EITC and the Extensive Margin: A Reappraisal" (March 2023) NBER Working Paper, <https://www.nber.org/papers/w26405>.

⁴¹ FPWA, "Pushed to the Precipice" (April 2021), https://www.fpwa.org/wp-content/uploads/2023/05/2104019_FPWA-benefitcliffs-rev2_FINAL_4.19.2021.pdf.

benefits cliff. However, if CCAA payments are modified to phase out at lower income thresholds, the presence of benefits cliffs at those thresholds would need to be studied.

Finally, it is worth noting the ESCC benefits are calculated using New York adjusted gross income (NYAGI). NYAGI modifies federal adjusted gross income by adding certain interest and other income to taxable New York income. These modifications are unlikely to substantially affect most lower- and middle-income New Yorkers.⁴²

4.5 Tax and Eligibility Concerns

The taxability of a benefit under different program options were assessed along with their potential risks to impact recipients' eligibility for other assistance benefit programs.

4.5.1 Tax Considerations

No one model of CCAA benefit delivery will likely be able to ensure that the benefit is not considered as income for federal tax purposes. Moreover, the degree of risk that the benefit may be interpreted as taxable income varies among households and income groups depending on the delivery method used.

Refundable State Income Tax Credit Program

Administering the CCAA benefit program as a refundable state income tax credit will likely have differential impacts across recipients, depending on the amount of the credit and the New York state income tax liability of the recipient. To the extent that a state income tax credit is in substance a refund of an overpayment of taxes and does not exceed the actual state income tax liability of the recipient, the credit is not likely to be considered as income or includible for federal tax purposes.⁴³ (see Section 3.3.2.) If, however, the state credit allowed exceeds the actual state income tax liability of the recipient and is refunded to them in a payment, the amount that exceeds the actual liability may be considered income for federal tax purposes in the absence of an exemption or exception.⁴⁴

To address the situation in which the CCAA benefit credit exceeds the actual liability of the recipient, New York could pursue a private letter ruling to qualify the refunded amount for the credit as qualifying under the general welfare exception in the same manner as required for a benefit made via direct payment. Again, the information reporting rules discussed earlier would come into play under a tax credit approach.

In short, using a state income tax credit delivery model, it is likely that a considerable number of recipients (e.g., those for whom the CCAA credit allowed does not exceed their state income tax liability) would not face a federal tax consequence from the benefit. This group, however, is likely comprised of middle- and upper-income households that are not the primary intended target of the program. Avoiding income inclusion for lower-income recipients will require qualifying some portion of the program as eligible for the general welfare exclusion.

⁴² Consolidated Laws of New York, Chapter 60, Article 22, Part 612, <https://www.nysenate.gov/legislation/laws/TAX/612>.

⁴³ As noted in Section 3.3.2, however, the refunded amount may be considered income in the subsequent tax year under the "tax benefit rule," if the taxpayer had deducted the state tax as an itemized deduction.

⁴⁴ *Maines v. Commissioner*, 144 Tax Court, 123 (2015).

Direct Payment Program

If a direct payment program is used to deliver CCAA benefits, it is likely that all recipients would be at risk of having the benefit included in income for federal tax purposes under the general inclusion rule of IRC section 61(a), unless the payment is determined by the IRS to meet one of its three exceptions, the most likely of which is the general welfare exception. Qualifying the CCAA benefit under the general welfare exception will require that the purpose of the CCAA benefit (i.e., reduction of energy costs) be considered to qualify for the promotion of the general welfare and that the CCAA benefit is sufficiently “based on the need of the individual or family receiving such payments.”⁴⁵

As discussed in Section 3.3.3, the IRS has previously considered that payments to low-income elderly households to assist in meeting winter heating costs were for the promotion of the general welfare. The IRS has not, however, in its various rulings put forth a clear standard for determining what is required to meet the standard of being based on the needs of the individual or family receiving the payment. This will require discussions with the IRS and likely securing a private letter ruling from the Service indicating that CCAA benefits to certain New Yorkers are not to be considered as income for federal tax purposes.

If a recipient is not included among those qualifying for exclusion under the general welfare exception, the CCAA benefit is likely to be considered income and be subject to tax in the year the benefit is received. The party responsible for issuing the payment to such individuals will also be required to issue a Form 1099-G to the recipient if the payment is more than \$600 in a year.

Utility Bill Assistance

Providing the CCAA benefit via a payment to various utilities on behalf of recipients would likely be viewed the same as a direct payment program. As such, the tax considerations for the direct payment program should apply to a utility bill assistance program.

Nonrefundable State Income Tax Refund Program

Administering the CCAA benefit as a nonrefundable state income tax credit, the program is likely not to raise any income inclusion issues if the refund made is considered an overpayment of tax and not a direct payment. In other words, under a nonrefundable credit delivery model, there should be no issues of inclusion of income for federal tax purposes, unless the “tax benefit rule” comes into play. (see Section 3.2.2.) Limiting the delivery to just this approach would not, however, reach recipients that are not obligated to file a New York State income tax return, or whose overpayment is less than the amount of CCAA benefit to which they are entitled under state law.

4.5.2 Benefit Assistance Eligibility Considerations

The impact on eligibility for assistance programs was evaluated for several important federal programs: Medicaid, LIHEAP, SNAP and TANF. While it was not possible to determine an exact payment amount that could interrupt eligibility for assistance due to the various income thresholds along with the range within each program, it was determined that the type of payment and frequency of the payment could have an effect on eligibility for government assistance payments. Direct cash payments made to a

⁴⁵ See, for example, IRS Notice 2023-53, issued February 20, 2023.

household member would likely be considered countable income for some assistance programs. Block grant programs also offer the state flexibility when defining countable income. LIHEAP and TANF for example, could implement a policy which excludes the CCAA benefit from the income eligibility calculation.

4.6 Administrative Effort and Administrative Cost

The administrative effort on the part of recipients was assessed when considering program options. The viability of program options, in terms of their administrative framework and set up cost, was also assessed. This includes the ability for an existing agency, a combination of existing agencies, a newly established agency, or third-party to fulfill the duties of effectively distributing the CCAA benefit. Providing the CCAA benefit in conjunction with an existing program or payment reduces the administrative effort both for New York State and for the recipient.

For the State, leveraging an existing program or process limits the need to invest in new data systems and logistics. That does not mean there would be no cost or burden for the state, but that the burden would be much smaller than that required to establish all new infrastructure and information processes.

For those receiving a benefit, it also means that while some communication is necessary for them to recognize that what the benefit is and why it is, there would not be a need to learn about the program, find out the application requirements, go somewhere to apply, and then wait to receive the benefit, which is time consuming especially for those with multiple jobs and family obligations. It also reduces the likelihood of the benefit coming at a trauma induced emotional cost by not requiring another set of interviews and approvals after applying.

It is likely that there will still need to be an administrative process for those who might otherwise not receive an existing tax or benefit support payment, but we expect the number of households that neither file taxes nor receive benefits to be much smaller than the overall CCAA benefit population.

5 Conclusion and Next Steps

NYSERDA and DEC commissioned this study to analyze the options available to New York State to use as a distribution mechanism for the funds available under CCAA and to determine which options might be preferable. This study reviewed a variety of programs that have set up a framework to provide funds to their residents, both under various market-based programs, like NYCI, as well as other types of social benefit programs. The study then provides recommendations on what options are likely to be most effective for CCAA benefit disbursement.

This study finds that, based on the historical evidence from similar programs elsewhere, there is unlikely to be a singular option that will allow the State to achieve the goals of providing the CCAA funds to the residents that need them the most. The State will likely need to consider a distribution framework that combines multiple approaches in a waterfall delivery structure. The optimal distribution approach would require using a refundable tax credit for most residents, using New York State tax filing data. The study also finds that such an approach may not reach everyone the State would likely want to reach, and the State would therefore need to explore the feasibility of supplementing it using an existing benefit delivery program to ensure reach to non-tax filers. The State may also need to consider exploring the feasibility of a supplemental application process to further expand reach, especially on the lower end of the income distribution. The study also recommends that the annual benefit should be calculated on a per capita basis and would likely require some regional adjustment scalar in order to account for regional variations in the exposure to energy costs. Finally, our study recommends that the CCAA funds should be distributed as a function of adjusted gross income with some progressively determined gradual phase out of benefits above certain income thresholds.

5.1 Policy Design Next Steps

This study raises some questions regarding the implementation of the preferred approach that were considered outside the scope of this study but those that would need to be resolved before implementation.

First, a program of this magnitude will inherently require extensive coordination between different state agencies that are likely to have some level of involvement for the program's successful implementation. This study was conducted under the auspices of an interagency study team and benefitted from input provided by various members throughout the course of the work. However, more of that coordination and collaboration will need to happen as the state prepares to move to the implementation phase for CCAA.

In addition, implementation of this program will also likely require coordination with federal agencies, such as the IRS. As the study concludes, no one model of CCAA benefit delivery will likely be able to ensure that the benefits provided are not considered as income for federal tax purposes. Ultimately, that determination will be made by IRS in consultation with the State using some of the existing mechanisms as discussed above. There may also be a need to consult with other federal agencies in order to ensure a common understanding of how CCAA benefits may interact with other means-tested benefit programs.

Finally, analyzing the interactions of CCAA funds with other existing programs and the risks it might introduce in disrupting eligibility considerations for other programs cannot be determined definitively

without clarity on the benefit amounts available to residents under CCAA. This study introduced some data and approaches that can be used to analytically determine the characteristics of the population that may be affected under different levels of funds available from NYCI. Further evaluation of these considerations will require clarity on NYCI program parameters and the corresponding allowance revenues likely to be generated.

Appendix A: Survey of Past Precedents Data

See Appendix A in Supplemental Materials

Appendix B: Benefit Program Data

See Appendix B in Supplemental Materials



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