

TITLE 8 SOCIAL SERVICES
CHAPTER 150 LOW INCOME HOME ENERGY ASSISTANCE PROGRAM
PART 100 GENERAL PROVISIONS FOR THE LOW INCOME HOME ENERGY ASSISTANCE PROGRAM

8.150.100.1 ISSUING AGENCY: New Mexico Human Services Department.
[7-1-95, 11-1-95; 8.150.100.1 NMAC - Rn, 8 NMAC 22.LHP.000.1, 10-1-01]

8.150.100.2 SCOPE: The rule applies to the general public.
[7-1-95, 11-1-95; 8.150.100.2 NMAC - Rn, 8 NMAC 22.LHP.000.2, 10-1-01]

8.150.100.3 STATUTORY AUTHORITY: 27 NMSA 1978 (1992 Repl.) provides for the department to "...adopt, amend and repeal bylaws, rules and regulations...". It also provides for administration of public assistance programs.
[7-1-95, 11-1-95; 8.150.100.3 NMAC - Rn, 8 NMAC 22.LHP.000.3, 10-1-01]

8.150.100.4 DURATION: Permanent.
[7-1-95, 11-1-95; 8.150.100.4 NMAC - Rn, 8 NMAC 22.LHP.000.4, 10-1-01]

8.150.100.5 EFFECTIVE DATE: November 15, 1996, unless a different date is at the end of a section or paragraph.
[7-1-95, 11-1-95; 1-15-96, 8.150.100.5 NMAC - Rn, 8 NMAC 22.LHP.000.5, 10-1-01]

8.150.100.6 OBJECTIVE: The objective of these regulations is to provide policy and procedures for the administration of the low income home energy assistance program.
[7-1-95, 11-1-95; 8.150.100.6 NMAC - Rn, 8 NMAC 22.LHP.000.6, 10-1-01]

8.150.100.7 DEFINITIONS: Unless otherwise apparent from the context, the following definition shall apply throughout these regulations. A life-threatening situation is a related emergency that poses a threat to the health or safety of one or more members of the household.
[8.150.100.7 NMAC - N, 10/01/2015]

8.150.100.8 STATUTORY AUTHORITY: The legal basis for the low income home energy assistance program (LIHEAP) is the Augustus F. Hawkins Human Services Reauthorization Act of 1990 (Public Law 101-501) as amended by Title III of the Human Services Amendments of 1994 (Public Law 103-252). Title XXVI of the Act is referred to as the Low Income Home Energy Assistance Act. The following sections cite the main statutory authorities for the state of New Mexico's administration of the LIHEAP grant award.
[7-1-95; 8.150.100.8 NMAC - Rn, 8 NMAC 22.LHP.001, 10-1-01]

8.150.100.9 SPECIFIC AUTHORITIES:

A. Assist eligible households: Section 2602(a) of the Low Income Home Energy Assistance Act states the purpose of LIHEAP is to assist eligible households in meeting the costs of home energy. HSD defines home energy as an energy expense that is incurred primarily for private residential heating or cooling.

B. Outreach: Section 2605(b)(3) of the Administration for Children and Families (ACF) Health and Human Services (HHS) Office of the Community Services (OCS) LIHEAP statute requires the LIHEAP grantee to conduct outreach activities to ensure eligible households, and especially elderly and disabled households, are made aware of the LIHEAP program as well as similar energy-related assistance, utilizing nonprofit agencies as well as the grantee's own field offices in its outreach efforts.

C. Categorical eligibility: No household is categorically eligible to receive LIHEAP. Eligibility is determined during the application process.

D. Financial eligibility: Households must have income at or below 150% of the federal poverty guideline.

E. 110% state poverty level: Section 2605(b)(2)(B) of the ACF HHS OCS LIHEAP statute further states that no household may be excluded because of income if it has an income which is less than 110% of the state poverty level.

F. Timely issuance of benefits: Section 2605(b)(5) of the ACF HHS OCS LIHEAP statute requires the LIHEAP grantee to provide energy assistance benefits in a timely manner as referenced in 8.100.130.11 NMAC.

G. Crisis funding: Section 2604 (C)(1) of the ACF HHS OCS LIHEAP statute requires the LIHEAP grantee to reserve a reasonable amount of funds for a crisis intervention program and to provide assistance to eligible households within 48 hours, excluding weekends and holidays, of the household's application for benefits. Subsection (2) further requires the LIHEAP grantee to provide assistance within 18 hours, excluding weekends and holidays, to eligible households that apply for benefits in a life-threatening situation.

H. Energy need and vulnerable populations: Section 2605 (b)(5) of the ACF HHS OCS LIHEAP statute requires the LIHEAP grantee to take into account the energy needs of low income households, giving priority to those having members of vulnerable populations such as young children, older individuals and individuals with disabilities.

I. Owners and renters: Section 2605(b)(8) of the ACF HHS OCS LIHEAP statute requires owners and renters to be treated equitably under the program.

J. Tribal LIHEAP: Section 2604(d)(1) of the ACF HHS OCS LIHEAP statute requires that a portion of the grant award be set aside for any Indian tribe in the state requesting an allocation of LIHEAP funds for the purpose of administering its own energy assistance program.

K. Administering agency: Section 2605(b)(6) of the ACF HHS OCS LIHEAP statute allows the grantee to designate local administrative agencies to carry out the program and to give special consideration to nonprofit agencies receiving federal funds for other energy-related assistance programs.

[7-1-95, 11-1-95, 11-15-96, 10-01-97, 10-15-98; 8.150.100.9 NMAC - Rn, 8 NMAC 22.LHP.001, 10-1-01; A, 10-1-15]

8.150.100.10 MISSION STATEMENT:

A. HOUSEHOLD RELATED POLICIES:

(1) HSD households: Households that receive benefits from programs administered by HSD will be notified of the LIHEAP application period. Those households that wish to apply for LIHEAP benefits may submit an application. It is HSD's policy to issue regular benefits under this program to eligible households that apply for benefits during the specified period of application for regular benefits and that meet the income eligibility requirement and have a responsibility to pay for energy costs as specified in this policy.

(2) Non-HSD households: It is HSD's policy to issue regular benefits under this program to eligible households that receive no other assistance from HSD but that apply for LIHEAP benefits during the specified period of application for regular benefits and that meet the income eligibility requirement and have a responsibility to pay for energy costs as specified in this policy.

(3) Wood-primary heat source: With the exception of households that use wood as their primary heat source and gather their own wood supply, households that do not incur a direct or indirect home energy cost are not eligible.

(4) Renter with energy costs: Renters who meet the eligibility criteria and incur a home energy cost are eligible for benefits under this program.

(5) Homeless applicants who meet the eligibility criteria are eligible for benefits under this program. Applicants who do not incur an energy cost will not be allowed an energy burden as defined in paragraph (1) of subsection A of 8.150.620.9 NMAC.

B. CRISIS INTERVENTION RELATED POLICIES:

(1) Crisis verification: Eligible households that have received a written disconnect notice from their utility vendor or a statement of non-delivery or sale of fuel from their fuel vendor due to lack of payment or inability to pay may be eligible to receive a LIHEAP benefit. When a crisis situation is identified, the department is required to provide intervention to resolve the energy crisis. The processing of an application for households in a crisis situation includes, a completed application, all necessary verification required to determine eligibility and contacting the vendor to intercede on the household's behalf to resolve the crisis situation. Eligible households with insufficient funds to open an account with a utility vendor or meet the security deposit requirements of a utility vendor may also be eligible to receive a LIHEAP benefit. These households must also be assisted with crisis intervention. Crisis intervention is not available to households that have received a LIHEAP benefit in the current federal fiscal year.

(2) Crisis situations for eligible households include, but are not limited to, the following scenarios:

(a) a written disconnect notice from utility vendor; or a statement of non-delivery; or sale of fuel from their fuel vendor due to lack of payment, or inability to pay;

- (b) have 20% or less bulk fuel; or
- (c) have less than a three (3) day supply of firewood.
- (3) A life threatening crisis situation for eligible crisis households include but are not limited

to the following:

- (a) households that contain a child age 1 or younger, or
- (b) households that contain elderly age 60 or older, or
- (c) households that contain a disabled member,
- (d) and contain a household member that their health or wellbeing would likely be

endangered if energy assistance is not provided.

(4) Crisis timeliness: Households who apply for LIHEAP benefits and provide documentation that a crisis situation exists will have their application processed in a timely manner.

(a) Assistance to resolve a crisis situation will be provided by the department within 48 hours, excluding weekends and holidays, of the receipt of the completed application for LIHEAP.

(b) Assistance to resolve a life-threatening crisis situation will be provided by the department within 18 hours, excluding weekends and holidays, of the receipt of the completed application for LIHEAP.

(5) Utility/vendor mediation: The LIHEAP benefit is intended to be a supplement to assist households with their energy bill. The ultimate responsibility for utility payments is the household's. The household will be notified that the LIHEAP benefit alone will not resolve their crisis situation. The household will be informed of other community resources.

[7-1-95, 11-1-95, 11-15-96, 10-01-97, 10-15-98, 10-1-00; 8.150.100.10 NMAC - Rn, 8 NMAC 22.LHP.002, 10-1-01; A, 10-1-06; A, 10-1-12; A, 10-1-15]

8.150.100.11 RESPONSIBILITIES AND DELEGATION: The income support division (ISD) of the human services department is responsible for administering the low income home energy assistance program (LIHEAP).

A. State LIHEAP plan: Every year, ISD submits a state plan to the U.S. department of health and human services (DHHS) for New Mexico's administration of LIHEAP. The proposed state plan and the proposed LIHEAP policy manual are made available for public comment and a public hearing is held.

B. LIHEAP administration: ISD is responsible for such matters as:

- (1) formulating and interpreting LIHEAP policy;
- (2) coordinating with other divisions within HSD for data processing of LIHEAP eligibility

and payment;

- (3) allocating and distributing LIHEAP monies;

- (4) data entry of applicants/recipients information not available on the department's

computer eligibility system; and

- (5) oversight responsibility for LIHEAP policy and procedures training and for the review of all LIHEAP training materials.

[8.150.100.11 NMAC - Rn, 8.150.101.9 NMAC & A, 10-1-12; A, 10-1-15]

8.150.100.12 ISD FIELD OFFICE RESPONSIBILITIES: Each of the field offices of the income support division in the state is responsible for:

A. providing outreach and referrals regarding the LIHEAP program for low income applicants/recipients, particularly disabled and elderly applicants/recipients, crisis applicants/recipients, and households with high home energy burdens;

B. informing low-income households, particularly disabled and elderly applicants/recipients, about the eligibility determination process and application procedures for the LIHEAP program;

C. providing documentation to households requesting verification of cash benefits received from the human services department or other documentation available to the department or in the electronic case file;

D. complying with other LIHEAP program directives as may be issued by ISD;

E. assisting all applicant households to complete the LIHEAP application and resolving questionable information;

F. adhere to the deadlines as stated in paragraph (2) of subsection B of 8.150.100.10 NMAC when processing a crisis or life threatening crisis LIHEAP application, making the necessary vendor contact, and documenting the processing times accurately in the case notes;

G. entering the completed LIHEAP application into the designated LIHEAP computer system;

H. responding to inquiries about the status of a LIHEAP application; and

I. processing any payment errors when identified regardless of the amount; the ISD office must issue a supplement in cases of benefit under-issuances or complete the necessary actions to establish the claim for the over-issuance and refer to the restitution services bureau for recoupment.

[8.150.100.12 NMAC - Rn, 8.150.102.8 NMAC & A, 10-1-12; A, 10-1-15]

HISTORY OF 8.150.100 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives:

ISD 600.0000, Energy Assistance Programs, 11-12-82.

ISD 600.0000, Low Income Energy Assistance Program, 1-9-84.

ISD 710.0000, Energy Assistance Programs, 11-15-85.

ISD 620.0000, Crisis Intervention Assistance, 11-12-82.

ISD 620.0000, Energy Crisis Intervention Assistance, 12-27-83.

ISD 714.0000, Energy Crisis Intervention, 11-20-85.

ISD 630.0000, Program Administration, 11-12-82.

ISD 630.0000, Program Administration, 12-27-83.

ISD 715.0000, Administration of Energy Assistance Programs, 11-20-85.

ISD FA 710, Energy Assistance Programs, 12-5-89.

ISD CAS 700, Energy Assistance Program, 11-13-91.

ISD CAS 700, Energy Assistance Program, 11-10-92.

ISD/CACB/LHP 700, Low Income Home Energy Assistance Program, 5-6-94.

ISD/CACB/LHP 700, Low Income Home Energy Assistance Program, 7-28-94.

History of Repealed Material: [RESERVED]