

TITLE 8 SOCIAL SERVICES
CHAPTER 150 LOW INCOME HOME ENERGY ASSISTANCE PROGRAM
PART 640 BENEFIT CORRECTIONS

8.150.640.1 ISSUING AGENCY: New Mexico Human Services Department.
[7-1-95, 11-1-95; 8.150.640.1 NMAC - Rn, 8 NMAC 22.LHP.000.1, 10-1-01]

8.150.640.2 SCOPE: The rule applies to the general public.
[7-1-95, 11-1-95; 8.150.640.2 NMAC - Rn, 8 NMAC 22.LHP.000.2, 10-1-01]

8.150.640.3 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; 8.150.640.3 NMAC - Rn, 8 NMAC 22.LHP.000.3, 10-1-01]

8.150.640.4 DURATION: Permanent.
[7-1-95, 11-1-95; 8.150.640.4 NMAC - Rn, 8 NMAC 22.LHP.000.4, 10-1-01]

8.150.640.5 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, 8.150.640.5 NMAC - Rn, 8 NMAC 22.LHP.000.5, 10-1-01]

8.150.640.6 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; 8.150.640.6 NMAC - Rn, 8 NMAC 22.LHP.000.6, 10-1-01]

8.150.640.7 DEFINITIONS: [RESERVED]

8.150.640.8 OVERPAYMENTS AND CLAIMS:

A. Household responsibility: Those who were adult members of the LIHEAP household at the time the overpayment occurred shall be responsible for the repayment of benefits issued directly to the household or sent to a vendor on behalf of the household.

B. Establishing the overpayment amount/claim:

(1) A claim shall be established for LIHEAP benefits that have been overpaid, regardless of the reason for the overpayment.

(2) The department may establish a claim for LIHEAP benefits overpaid up to six years prior to the date the overpayment occurred.

C. Notice of adverse action notice (NOAA):

(1) If the amount of the claim was not established by a fair hearing decision, the household will be provided a one-time NOAA which informs the household of the claim and that it has 90 days to appeal the amount of the claim.

(2) The one time NOAA will satisfy notice requirements to begin collection action on any claim.

(3) The NOAA shall advise the household of the availability of any individual or organization which provides free legal representation.

D. Demand letter: Collection action is initiated by sending the household a demand letter. The demand letter informs the household of the amount of the claim, the reason for the claim, time period for which there is a claim, any offset which reduces the claim and how the household may re-pay the claim.

E. Collection action:

(1) The household shall have 45 days from the date of notification of the claim amount by HSD to repay the claim or make arrangements to repay the claim.

(2) HSD will initiate collection action to recover the claim amount on day 46 if the household does not repay or make arrangements to re-pay the amount which it owes,

(3) Offsetting the claim: A benefit amount may be offset during the issuance process in order to recover a LIHEAP claim. The amount that is offset shall be conveyed to the restitution services bureau to be applied to the recipient's overpayment.

[7-1-95, 11-1-95, 11-15-96, 8.150.640.8 NMAC - Rn, 8 NMAC.22 LHP 640 & A, 10-1-01; A, 11-15-10]

8.150.640.9 TERMINATING OVERPAYMENT CLAIMS: Terminating a claim means that all collection action has ceased. HSD may terminate a claim for any of the reason described in Subsections A through E of this section.

A. Invalid claims: The overpayment is determined to be invalid based on a hearing decision, a court decision or a case worker determination that the claim was established in error.

B. Death: All adult members responsible for repayment of the claim are deceased.

C. Cost effectiveness: HSD has determined that the cost of further collection action is likely to exceed the amount that can be recovered because:

(1) the cumulative amount of all existing claims against the household equals \$25.00 or less; and

(2) a payment on the claim has not been received by HSD in at least 90 days.

D. Failure to locate: There is documentation establishing that the household cannot be located and the existing claim has been delinquent for at least six years.

E. Inability to pay: There is written documentation establishing the household has filed for bankruptcy and HSD is named as creditor.

[8.150.640.9 NMAC - N, 11-15-10]

8.150.640.10 WRITING OFF A CLAIM: Writing off a claim means that the claim is no longer considered a receivable subject to any federal or state collection requirements such as the Treasury Offset Program at 31 CFR 285 or the Supplemental Nutrition Assistance Program at 7 CFR 273.18. A claim may be written off if the claim is at least six years old and at least one of the provisions of 8.150.640.9 NMAC apply.

[8.150.640.10 NMAC - N, 11-15-10]

8.150.640.11 REINSTATING A TERMINATED CLAIM: If a new collection method or specific event substantially increases the likelihood of further collections, action to recover a terminated claim may be reinstated.

[8.150.640.11 NMAC - N, 11-15-10]

HISTORY OF 8.150.640 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]