



STATE OF NEW MEXICO
HUMAN SERVICES DEPARTMENT



HUMAN SERVICES REGISTER

I. DEPARTMENT

HUMAN SERVICES DEPARTMENT

II. SUBJECT

Low Income Home Energy Assistance Program (LIHEAP)
New Mexico Administrative Code (NMAC)

III. PROGRAMS AFFECTED

Low Income Home Energy Assistance Program (LIHEAP)

IV. ACTION

FINAL RULE

V. BACKGROUND

The final changes to the LIHEAP New Mexico Administrative Code (NMAC) places the New Mexico Human Services Department in alignment with the administration of LIHEAP with our Automated System Program and Eligibility Network (ASPEN).

The department received written comments from two entities. Both entities were requesting copies of the proposed changes to the LIHEAP NMAC. Copies of 8.150.100, 8.150.110, 8.150.410, 8.150.500, 8.150.520, 8.150.600, and 8.150.620 were provided to both requestors.

A public hearing was held on July 30, 2015 on the proposed rules. There were no attendees and no comments were received with regards to the regulations proposed in the Human Services Register Vol. 38, No. 14. The Department is finalizing the regulations as proposed.

VI. FINAL REGULATIONS

This register and final regulations are also available on the Human Services Department website at: <http://www.hsd.state.nm.us/LookingForInformation/income-support-division-registers.aspx>. If you do not have Internet access, a copy of the final regulations may be requested by contacting Income Support Division Policy and Program Development Bureau at 505-827-7274.

VII. EFFECTIVE DATE

October 1, 2015

VIII. PUBLICATION

Publication of these final regulations approved on August 27, 2015 by:



BRENT EARNEST, SECRETARY
HUMAN SERVICES DEPARTMENT

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 the 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]

TITLE 8 SOCIAL SERVICES
CHAPTER 150 LOW INCOME HOME ENERGY ASSISTANCE PROGRAM
PART 110 APPLICATIONS

8.150.110.1 ISSUING AGENCY: New Mexico Human Services Department.
[7-1-95, 11-1-95; 8.150.110.1 NMAC - Rn, 8 NMAC 22.LHP.000.1, 10-1-01]

8.150.110.2 SCOPE: The rule applies to the general public.
[7-1-95, 11-1-95; 8.150.110.2 NMAC - Rn, 8 NMAC 22.LHP.000.2, 10-1-01]

8.150.110.3 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; 8.150.110.3 NMAC - Rn, 8 NMAC 22.LHP.000.3, 10-1-01]

8.150.110.4 DURATION: Permanent.
[7-1-95, 11-1-95; 8.150.110.4 NMAC - Rn, 8 NMAC 22.LHP.000.4, 10-1-01]

8.150.110.5 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, 8.150.110.5 NMAC - Rn, 8 NMAC 22.LHP.000.5, 10-1-01]

8.150.110.6 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; 8.150.110.6 NMAC - Rn, 8 NMAC 22.LHP.000.6, 10-1-01]

8.150.110.7 DEFINITIONS: [RESERVED]

8.150.110.8 RIGHT TO APPLY:

A. Recipients/applicants: Anyone has the right to apply for any benefits provided by ISD whether or not it appears that he/she will be eligible.

B. Outreach:

(1) HSD responsibilities: HSD conducts outreach regarding the LIHEAP program to eligible households, and particularly elderly and disabled households, through the ISD field offices and all of the offices and suboffices of the state's community action agencies. Additional outreach efforts to elderly and disabled households are made through workshops and conferences held by the state's agency on aging.

(2) Community action agency responsibility: HSD coordinates with the community action agencies to provide information and outreach services regarding LIHEAP and other energy-related assistance programs.

C. Barrier free policy: It is HSD's policy to make the application process for these households as barrier-free as possible. This includes:

(1) paperwork reduction and not requiring reverification by the household of information already available to HSD, such as SSI status;

(2) ease of access to physical locations where application may be made;

(3) provide access to the department's online application; and

(4) provide additional assistance for any recipient/applicant who requires it.

D. Annual benefit: Each eligible household will be issued one benefit each federal fiscal year. The benefit may be issued in one or multiple payments depending on the funding availability and the approval of the HSD secretary. Receipt of a LIHEAP benefit from any other LIHEAP administering entity (tribe, state or territory) funded by HHS during any federal fiscal year would prohibit the receipt of LIHEAP in New Mexico during that FFY.

E. Supplemental benefit: A supplemental benefit may be established under certain conditions at the direction of the HSD secretary. A supplemental benefit may occur when:

(1) funding levels are predicted to exceed allowable carryover of federal funds to the next federal fiscal year;

(2) emergency weather circumstances.

[7-1-95, 11-1-95, 11-15-96, 10-15-98, 10-1-00; 8.150.110.8 NMAC - Rn, 8 NMAC 22.LHP.111 & A, 10-1-01; A, 01-15-10; A, 10-1-15]

8.150.110.9 SUBMISSION OF FORMS:

A. Applicants: Any household may apply for benefits during the specified application period:
(1) in person at any local county income support division office;
(2) through the online application; or
(3) submitting an application via mail or fax to any local county income support division office.

B. Application process: In order for a determination of eligibility for regular benefits to be made for these applicant households, the household's signed application must be received by the deadline date of the application period of October 1st through September 30th for each Federal Fiscal Year. Required verification must be received by the 30th day after the received date stamped on the LIHEAP application.

C. Application period: The period of application for benefits will be year round beginning after the application for the LIHEAP grant has been submitted to the U.S. department of health and human services, and ending September 30. The application period is October 1st through September 30th for each Federal Fiscal Year. [7-1-95, 11-1-95, 11-15-96, 10-01-97, 12-01-97, 10-1-00; 8.150.110.9 NMAC - Rn, 8 NMAC 22.LHP.112 & A, 10-1-01; A, 10-1-12; A, 10-1-15]

8.150.110.10 DISPOSITION OF APPLICATION/NOTICE:

A. Income support division county office responsibilities: Households who complete the application process for LIHEAP benefits will be provided with a notice indicating whether they have been approved or denied. Upon acknowledgement of payment by the vendor, households will be provided with a notice indicating that they have been approved. Upon determination of ineligibility by HSD, households will be provided with a notice indicating that they have been denied. If the household fails to provide the verification required to determine eligibility, ISD may deny the application after 30 days from the date of the application.

B. LIHEAP central office responsibilities: LIHEAP central office staff will complete random reviews of LIHEAP approvals and denials. The review will verify whether LIHEAP policy was correctly applied. If an eligibility error is found or the application is incomplete, a determination will be made to identify any payment errors.

C. Notices: All households will be mailed a notice indicating whether they have been approved or denied for LIHEAP benefits. The notice indicating that an applicant has been approved will list the point calculation, point total, the benefit amount and the method of issuance. The notice indicating that an applicant has been denied will indicate the denial reason.

[7-1-95, 11-1-95, 11-15-96, 11-16-96, 10-15-98, 10-1-00; 8.150.110.10 NMAC - Rn, 8 NMAC 22.LHP.116, 10-1-01; A, 10-1-12; A, 10-1-15]

HISTORY OF 8.150.110 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]

TITLE 8 SOCIAL SERVICES
CHAPTER 150 LOW INCOME HOME ENERGY ASSISTANCE PROGRAM
PART 410 GENERAL RECIPIENT REQUIREMENTS

8.150.410.1 ISSUING AGENCY: New Mexico Human Services Department.
[7-1-95, 11-1-95; 8.150.410.1 NMAC - Rn, 8 NMAC 22.LHP.000.1, 10-1-01]

8.150.410.2 SCOPE: The rule applies to the general public.
[7-1-95, 11-1-95; 8.150.410.2 NMAC - Rn, 8 NMAC 22.LHP.000.2, 10-1-01]

8.150.410.3 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; 8.150.410.3 NMAC - Rn, 8 NMAC 22.LHP.000.3, 10-1-01]

8.150.410.4 DURATION: Permanent.
[7-1-95, 11-1-95; 8.150.410.4 NMAC - Rn, 8 NMAC 22.LHP.000.4, 10-1-01]

8.150.410.5 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, 8.150.410.5 NMAC - Rn, 8 NMAC 22.LHP.000.5, 10-1-01]

8.150.410.6 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; 8.150.410.6 NMAC - Rn, 8 NMAC 22.LHP.000.6, 10-1-01]

8.150.410.7 DEFINITIONS: [RESERVED]

8.150.410.8 HOUSEHOLD UNIT: For purposes of LIHEAP, a household is an individual, or group of individuals living together, who incurs a heating or cooling cost. The heating or cooling cost must be to meet residential, not business or industrial, heating or cooling needs.
[7-1-95, 11-1-95, 11-15-96, 10-15-98; 8.150.410.8 NMAC - Rn, 8 NMAC 22.LHP.410.11 & A, 10-1-01; A, 10-01-06]

8.150.410.9 ENERGY RESPONSIBILITY:

A. Energy cost: To be eligible for LIHEAP benefits, the household must incur an energy cost. The energy cost may be for a primary heat source, i.e., the energy source or fuel with which the household is predominantly heated, or for a secondary heat source. A secondary heat source is an energy source that is essential to the process of providing heat to the home. The energy cost may be for a cooling cost. The cooling cost may be for a primary source, i.e., evaporative cooling or refrigerated air, or secondary cooling. Secondary cooling is the use of energy to operate portable fans, ceiling fans, whole house fans, gable vent fans, or power attic vent fans.

B. Secondary heat source: Electricity to ignite a gas or steam furnace is the most common example of an allowable secondary heat source for LIHEAP purposes. Electricity used only for lighting purposes or to operate fans to distribute heat from a wood-burning stove is not considered an allowable secondary heat source for LIHEAP purposes.

C. Wood-gathering households: Households who use wood as a fuel to heat their home and gather the wood themselves are considered to have a heating responsibility. Regardless of whether a direct or indirect cost was incurred to obtain the wood the household meets this requirement.

D. Direct or indirect utility responsibility: The heating/cooling cost may be direct in the form of a utility payment or fuel purchase, or indirect in the form of a non-subsidized rent payment which either designates or does not designate the included utility cost, or costs associated with obtaining wood for heating households.

E. Crisis intervention: To be eligible for LIHEAP regular or life-threatening crisis intervention, the household must meet the eligibility criteria for regular benefits as specified in 8.150.500.8 NMAC, must not have received a LIHEAP benefit in the current federal fiscal year and, in addition, be able to provide verification that proves the applicant household is facing a current or impending energy crisis, established with any one of the following:

(1) current notice of disconnect for the household from a utility vendor; or
(2) applicant written or verbal statement of insufficient funds for the household to open an account with a utility vendor or meet the security deposit requirements of a utility vendor; or
(3) statement from the household's fuel vendor that fuel will not be provided without payment.

(4) **Life-threatening crisis intervention:** The applicant must meet the above criteria for a regular crisis intervention and in addition provide a written or verbal statement advising that the household faces an emergency which poses a threat to the health or safety of one or more members of the household.

F. **Community referrals:** In circumstances where the household is not eligible for crisis intervention, or if a balance remains after the crisis/life threatening intervention has been provided, the household shall be informed of other resources in the community, which may be able to assist the household in meeting its energy expenses.

[7-1-95, 11-1-95, 11-15-96, 10-15-98; 8.150.410.9 NMAC - Rn, 8 NMAC 22.LHP.410, 10-1-01; A, 10-1-12; A, 10-1-15]

8.150.410.10 [Reserved]

[7-1-95, 11-1-95, 11-15-96, 10-15-98; 8.150.410.10 NMAC - Rn, 8 NMAC 22.LHP.410, 10-1-01; Repealed, 10-1-12]

8.150.410.11 HOUSING TYPE:

A. **Non-subsidized rent:** Non-subsidized rent is defined as an obligation to pay for shelter which is entirely the responsibility of the household incurring the expense.

(1) **Separate direct costs:** Households paying non-subsidized rent who incur a separate heating/cooling cost are eligible for LIHEAP.

(2) **Utilities included in rent:** Households paying non-subsidized rent whose utility costs are included in their rent, even if no such cost is designated, are eligible for LIHEAP.

B. **Subsidized rent:** Subsidized rent assistance is defined as a payment for shelter, or shelter and utilities, the cost of which has been reduced due to a subsidy from a housing or other assistance program. University housing does not meet this definition and is therefore not considered subsidized housing.

(1) **Separate direct costs:** Households receiving subsidized rent assistance who incur a separate direct cost for heating/cooling are eligible for LIHEAP benefits;

(2) **Subsidized rent/utilities with additional separate utility cost:** Households receiving subsidized rent assistance who receive a subsidy for utilities but who incur an additional out-of-pocket expense for utilities are eligible for LIHEAP;

(3) **Subsidized rent with utilities included:** Households receiving subsidized rent assistance whose heating/cooling cost is included in their subsidized rent and do not incur an additional out-of-pocket heating or cooling expense are not eligible for LIHEAP;

(4) **Subsidized rent with rental cost:** Households receiving subsidized rent assistance who pay rent but do not pay utilities are not eligible for LIHEAP; and,

(5) **Subsidized rent with no cost:** Households receiving subsidized rent assistance who pay no rent and no utilities are not eligible for LIHEAP;

C. **Mortgaged or free and clear home:** Households who pay a mortgage or own their own home and incur a separate heating/cooling cost are eligible for LIHEAP.

[7-1-95, 11-1-95, 11-15-96, 10-15-98; 8.150.410.11 NMAC - Rn, 8 NMAC 22.LHP.410, 10-1-01; A, 10-1-15]

8.150.410.12 INDIAN TRIBAL ELIGIBILITY: In New Mexico, an Indian tribe may choose to administer its own LIHEAP program for tribal members and request from DHHS an allocation of the state's share of the LIHEAP grant award for this purpose. An Indian tribe is defined as a legal entity of a group of Native Americans living on tribal lands with a distinct and separate government. Residents of tribal land may be eligible for tribal administered LIHEAP or HSD-administered LIHEAP under the following circumstances.

A. **Tribes that administer LIHEAP:** Indian tribal members living on their tribe's tribal lands, whose tribe administers their own LIHEAP program, are not eligible for HSD-administered LIHEAP benefits.

B. **Tribes not administering LIHEAP:** Indian tribal members living on the tribal lands of tribes not administering their own LIHEAP program may be considered for HSD-administered LIHEAP benefits providing they meet income eligibility and heating/cooling responsibility requirements as specified in this policy.

C. Indians on other tribes' land: Households that are members of Indian tribes administering their own LIHEAP program but not living on their tribe's tribal lands, may be considered for HSD-administered LIHEAP benefits providing they meet income eligibility and heating responsibility requirements, as specified in this policy, and they did not receive LIHEAP benefits from their tribal government for the current LIHEAP season.

D. Non-Indians and non-tribal members on tribal land: Non-Indians living on tribal lands and Indians living on tribal lands who are excluded from eligibility for LIHEAP by the Indian tribe administering their own LIHEAP program may be considered for HSD-administered LIHEAP benefits providing they meet income eligibility and heating/cooling responsibility requirements as specified in this policy.

E. At the direction of the HSD secretary, HSD may serve tribal members normally excluded due to Subsection A of 8.150.410.12 NMAC if they have not been or do not expect to be served by the tribal LIHEAP program.

[7-1-95, 11-1-95, 11-15-96; 8.150.410.12 NMAC - Rn, 8 NMAC 22.LHP.410 & A, 10-10-01; A, 10-1-05; A, 10-1-06; A, 10-1-12; A, 10-1-15]

8.150.410.13 CITIZENSHIP: To be eligible, a LIHEAP household must contain at least one member who is a (1) U.S. citizen, or (2) a qualified alien considered eligible to participate in the TANF program. See 8 USC Sec. 1641, Title 8, Chapter 14, Subchapter IV, and any subsequent changes.

[7-1-95, 11-1-95; 8.150.410.13 NMAC - Rn, 8 NMAC 22.LHP.410, 10-1-01; A, 10-01-06]

8.150.410.14 RESIDENCY: To be eligible, a LIHEAP household must have a residence in New Mexico and be occupying that residence at the time of application. The LIHEAP benefit must be applied toward the utility or fuel costs incurred for that residence.

[7-1-95, 11-1-95; 8.150.410.14 NMAC - Rn, 8 NMAC 22.LHP.410, 10-1-01; A, 10-01-06]

8.150.410.15 ENUMERATION: To be eligible for inclusion in the LIHEAP benefit group, a social security number (SSN) or proof of application for a number must be provided for each citizen and qualified alien for which assistance is being requested. Any member(s) of a LIHEAP applicant household who do not meet the requirements of this section will not be eligible for a LIHEAP benefit.

[8.150.410.15 NMAC - N, 10-01-06]

8.150.410.16 RESIDENCE IN FACILITY OR INSTITUTION: Persons residing in New Mexico but living in group homes, halfway houses, institutions, homeless shelters, or in places not normally intended for human occupation are not eligible unless they can document heating/cooling expenses.

[8.150.410.16 NMAC - Rn, 8.150.420.8 NMAC & A, 10-1-12]

8.150.410.17 RECIPIENT RIGHTS:

A. Treatment and non-discrimination: Members of a household shall have the right, at all times, to be treated with dignity at all times. Household members may not be discriminated against on the basis of age, sex, race, color, handicap, national origin, or religious or political belief.

B. Confidentiality: Household members have the right to confidentiality as defined in 8.100.100.13 NMAC.

C. Fair hearings: The household has the right to disagree with the determinations made by HSD and to appeal such actions through HSD's fair hearing process.

[8.150.410.17 NMAC - Rn, 8.150.430.8 NMAC & A, 10-1-12]

8.150.410.18 RECIPIENT RESPONSIBILITIES:

A. Benefit purpose: The household is responsible for using the benefit received for the purpose intended.

B. Erroneously issued benefits: If it is determined the household is not entitled to the benefit received, whether agency or recipient caused, the household is responsible for paying back the benefits received. The household is responsible for repayment whether the benefit was received directly by the household or paid to a vendor per subsection H of 8.150.100.12 NMAC, a claim must be established for any erroneous benefit issuance.

[8.150.410.18 NMAC - Rn, 8.150.430.9 NMAC & A, 10-1-12; A, 10-1-15]

HISTORY OF 8.150.410 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]

TITLE 8 SOCIAL SERVICES
CHAPTER 150 LOW INCOME HOME ENERGY ASSISTANCE PROGRAM
PART 500 ELIGIBILITY

8.150.500.1 ISSUING AGENCY: New Mexico Human Services Department.
[7-1-95, 11-1-95; 8.150.500.1 NMAC - Rn, 8 NMAC 22.LHP.000.1, 10-1-01]

8.150.500.2 SCOPE: The rule applies to the general public.
[7-1-95, 11-1-95; 8.150.500.2 NMAC - Rn, 8 NMAC 22.LHP.000.2, 10-1-01]

8.150.500.3 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; 8.150.500.3 NMAC - Rn, 8 NMAC 22.LHP.000.3, 10-1-01]

8.150.500.4 DURATION: Permanent.
[7-1-95, 11-1-95; 8.150.500.4 NMAC - Rn, 8 NMAC 22.LHP.000.4, 10-1-01]

8.150.500.5 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, 8.150.500.5 NMAC - Rn, 8 NMAC 22.LHP.000.5, 10-1-01]

8.150.500.6 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; 8.150.500.6 NMAC - Rn, 8 NMAC 22.LHP.000.6, 10-1-01]

8.150.500.7 DEFINITIONS: [RESERVED]

8.150.500.8 NEED DETERMINATION: To be eligible for LIHEAP benefits households must do the following:

A. An applicant/recipient or representative must complete an application for LIHEAP benefits and will be interviewed face to face or telephonically only if information is questionable, to determine crisis or life threatening situations, or if the client has not been interviewed by the department for any other ISD program thirty (30) days prior to the application date stamped on the application.

B. The household must provide proof that they meet the qualifications of the LIHEAP program; current documents used in other public assistance programs may be used for LIHEAP application processes, unless questionable:

- (1) proof of identity for the applicant using any of the following documentation:
 - (a) birth certificates(s); or
 - (b) baptism certificate; or
 - (c) hospital or birth record; or
 - (d) divorce papers; or
 - (e) alien registration card; or
 - (f) immigration & naturalization service (INS) records; or
 - (g) U. S. passport; or
 - (h) Indian census records; or
 - (i) family bible; or
 - (j) school or day care records; or
 - (k) government records; or
 - (l) social security records; or
 - (m) social service records; or
 - (n) insurance policy; or
 - (o) court records; or
 - (p) church records; or
 - (q) voter registration card; or

- (r) letter from doctor, religious official or school official, or someone else who knows the applicant; or
- (s) applicant sworn statement;
- (2) proof of citizenship or legal resident status if questionable, such as birth certificate, permanent resident card, naturalization papers, etc.;
- (3) social security numbers for all household members requesting assistance; a social security card is required if the department is not able to validate or if the number is questionable;
- (4) proof of gross income for all household members, such as check stubs, award letters, statement from employer, etc.;
- (5) proof of a utility responsibility with an expense incurred in the past twelve months for the household's current residence:
 - (a) bill for metered service for a one-month period, or
 - (b) two (2) consecutive purchase receipts for propane, or a history of the account from the vendor, or
 - (c) receipt for wood purchase which includes a statement from the applicant of the duration of use for said wood, or
 - (d) rental agreement or landlord statement that utilities are included in rent, or
 - (e) from the utility or fuel vendor, a signed statement or billing history;
- (6) account number at current address for the selected heating or cooling expense;
- (7) proof of crisis when the situation exists, such as a current disconnect notice, statement of non-delivery of bulk fuel or statement detailing the cost of initiating service;
- (8) proof of a life-threatening crisis when the situation exists, such as a current disconnect notice, statement of non-delivery of bulk fuel or statement detailing the cost of initiating service and a written or verbal statement from the applicant advising that the household faces an emergency which poses a threat to the health or safety of one or more members of the household;
- (9) proof of disability for at least one household member as determined by another public assistance or federal or state entity;
- (10) proof of emergency expenditures that apply to 8.150.520.18 NMAC; and
- (11) proof of the household's main fuel expense for the household's current residence, if applicant/recipient is not requesting LIHEAP for assistance with the main heating or cooling fuel source.

C. eligibility criteria: the household must meet the identity, social security number, income, citizenship, utility responsibility, and residency requirements.
 [7-1-95, 11-1-95, 11-15-96, 10-1-97, 10-15-98; 8.150.500.8 NMAC - Rn, 8 NMAC 22.LHP.501.11 & A, 10-1-01; A, 10-1-06; A, 10-1-07; A, 10-1-12; A, 10-1-15]

8.150.500.9 [Reserved]
 [7-1-95, 11-1-95, 11-15-96, 10-15-98, 10-1-00; 8.150.500.9 NMAC - Rn, 8 NMAC 22.LHP.501.12, 10-1-01; A, 10-1-06; Repealed 10-1-12]

8.150.500.10 [Reserved]
 [7-1-95, 11-1-95, 11-15-96, 10-15-98, 10-1-00; 8.150.500.10 NMAC - Rn, 8 NMAC 22.LHP.501.2 & A, 10-1-01; A, 10-1-05; A, 10-1-07; A, 4-1-10; Repealed, 10-1-12]

HISTORY OF 8.150.500 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]

TITLE 8 SOCIAL SERVICES
CHAPTER 150 LOW INCOME HOME ENERGY ASSISTANCE PROGRAM
PART 520 INCOME

8.150.520.1 ISSUING AGENCY: New Mexico Human Services Department.
[7-1-95, 11-1-95; 8.150.520.1 NMAC - Rn, 8 NMAC 22.LHP.000.1, 10-1-01]

8.150.520.2 SCOPE: The rule applies to the general public.
[7-1-95, 11-1-95; 8.150.520.2 NMAC - Rn, 8 NMAC 22.LHP.000.2, 10-1-01]

8.150.520.3 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; 8.150.520.3 NMAC - Rn, 8 NMAC 22.LHP.000.3, 10-1-01]

8.150.520.4 DURATION: Permanent.
[7-1-95, 11-1-95; 8.150.520.4 NMAC - Rn, 8 NMAC 22.LHP.000.4, 10-1-01]

8.150.520.5 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, 8.150.520.5 NMAC - Rn, 8 NMAC 22.LHP.000.5, 10-1-01]

8.150.520.6 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; 8.150.520.6 NMAC - Rn, 8 NMAC 22.LHP.000.6, 10-1-01]

8.150.520.7 DEFINITIONS: [RESERVED]

8.150.520.8 EARNED GROSS INCOME:

A. Definitions: Earned gross income is defined as income received in the form of wages paid on a predetermined regular basis, pay received irregularly for work performed irregularly, or income resulting from self-employment activities. Income from rental property, if 20 hours or more per week are spent working as a landlord, is also countable as earned income.

B. Exclusions: The following are not counted as gross income:
(1) in-kind benefits: (i.e. good or services realized, provided or exchanged for non-monetary compensation);

(2) vendor payments: (i.e. payments made on behalf of a household to a third party);

(3) lump sum payments: see food stamp regulations on lump sum payments in 8.139.520.9

NMAC;

(4) loans;

(5) charitable contributions from nonprofit agencies to meet household expenses;

(6) earned income tax credits;

(7) value of food stamps;

(8) TANF annual clothing allowance;

(9) monies received for the care of a third party beneficiary who is not a household member;

and

(10) monies excluded by federal statute, a listing of which can be found in food stamp policy

citation 8.139 NMAC.

[7-1-95, 11-1-95, 11-15-96, 10-15-98, 10-1-99, 10-1-00; 8.150.520.8 NMAC - Rn, 8 NMAC 22.LHP.520.2, 10-1-01; A, 10-1-06; A, 10-1-12]

8.150.520.9 SELF EMPLOYMENT GROSS INCOME:

A. Definition: Ongoing self-employment income intended to support the household through the year, that is averaged over a 12 month period, even if the household earns the money in a concentrated period. Self-employment income intended to support the household only for a portion of the year must be averaged over the months it is intended to provide support.

B. Verification sources: Monthly business records detailing profits and expenses or the household's federal income tax return are needed to annualize the household's self-employment income.

C. Gross income calculation: For self-employment income, the net income of the business activity is considered the gross income of the household member. The net income of the business is derived by subtracting the allowable costs of doing business from the business's gross income.

D. Business expenses:

(1) Allowable costs are, generally, those required to produce the business's gross income. These include, but are not limited, to: raw materials, stock, labor, insurance premiums, interest paid on income producing property, taxes paid on income-producing property, transportation for business purposes.

(2) Costs specifically not allowed are payments on the principal of the purchase price of income-producing property, assets, equipment, or machinery, net losses from previous periods, personal income taxes, money set aside for personal expenses, transportation to and from work, charitable contributions, entertainment, and depreciation.

E. Annualizing income: From gross self-employment income, subtract allowable expenses to derive the net self-employment income. Divide the net self-employment income by 12 to produce a monthly (average) figure. This figure is the countable monthly gross income. To determine the household's total gross, this figure must be added to any other income the household receives.

[7-1-95, 11-1-95, 11-15-96; 8.150.520.9 NMAC - Rn, 8 NMAC 22.LHP.520.3, 10-1-01; A, 10-1-12]

8.150.520.10 GROSS INCOME OF INELIGIBLE ALIENS: The gross income received by any ineligible alien household member must be prorated and counted to establish the benefit amount.

A. Definition: If any member of the household providing income to the household is an ineligible alien for TANF purposes, that member's income is not counted in its entirety but is prorated. Prorating results in excluding a portion of the ineligible alien household member's income from consideration because the ineligible alien is not a recipient of public assistance benefits.

B. Proration calculation: Calculate the gross income of the ineligible alien and divide the total by the number of members, eligible and ineligible, in the household. The resulting figure is the pro-rata portion of the income for each member, eligible and ineligible. To determine the portion of the income to be counted, multiply the pro rata portion by the remaining number of eligible household members.

[7-1-95, 11-1-95, 11-15-96; 8.150.520.10 NMAC - Rn, 8 NMAC 22.LHP.520.4, 10-1-01; A, 10-1-06; A, 10-1-12]

8.150.520.11 GROSS INCOME OF MIGRANT HOUSEHOLDS:

A. Definition: A migrant household is a group that travels away from home on a regular basis with a group of laborers to seek employment in an agriculturally related activity.

B. Verification sources: The household's federal income tax return is needed to annualize the household's income.

C. Calculation: The household's annual income reported on their federal income tax return should be divided by 12 to determine the household's average monthly income.

[10-15-98; 8.150.520.11 NMAC - Rn, 8 NMAC 22.LHP.520.5, 10-1-01; A, 10-1-12]

8.150.520.12 GROSS INCOME DETERMINATION: Gross income of the household member is defined as all income received prior to deductions, including taxes, garnishments, whether voluntary or involuntary and net business income.

A. Income sources: Gross income includes income from both earned and unearned sources.

B. Countable income: The gross unearned income of all household members is counted in its entirety, and the gross earned income of all household members over the age of 18 is counted in its entirety, unless:

(1) the income is specifically exempted; or

(2) the income is self-employment, in which case the income is annualized (see LIHEAP

8.150.520.9 NMAC); or

(3) the income is that of an ineligible alien, in which case the income is prorated (see LIHEAP policy 8.150.520.10 NMAC);

(4) the income is a full month's income and is anticipated to be received on a weekly or biweekly basis; in these circumstances, the income shall be converted to a monthly amount as follows:

(a) income received on a weekly basis is averaged and multiplied by 4.0;

(b) income received on a biweekly basis is averaged and multiplied by 2.0;

(c) averaged income shall be rounded to the nearest whole dollar prior to application of the conversion factor; amounts resulting in \$.50 or more are rounded up; amounts resulting in \$.49 or lower are rounded down.

C. **Gross income receipt period:** HSD shall establish income by utilizing the gross income of the household for the 30 day period immediately preceding the date on which LIHEAP eligibility is determined by ISD.

D. **Current income verified in other public assistance programs:** Current income that has been verified by ISD in another active public assistance programs may be used to verify income for the LIHEAP application, unless deemed questionable.

[8.150.520.12 NMAC - Rn, 8.150.500.10 NMAC & A, 10-1-12]

8.150.520.13 UNEARNED INCOME:

A. **Definition:** Unearned income is income received in the form of entitlement, disability, retirement, unemployment benefits or payments, including but not limited to the following:

- (1) child support;
- (2) alimony;
- (3) temporary assistance to needy families (TANF) benefits;
- (4) general assistance (GA) payments;
- (5) royalties;
- (6) dividends and interest; or
- (7) tribal benefits.

B. **Gross unearned income:** The gross amount of the benefit or payment must be counted. In the case of OASDI benefits, the gross amount of the benefit includes the amount deducted for the medicare premium, if applicable.

C. **Real estate contracts:** Monthly payments resulting from the sale of property and contributions from family or friends are also countable unearned income.

D. **Exclusions:** The following are not counted as income:

- (1) in-kind benefits (i.e. goods or services realized, provided or exchanged for non-monetary compensation);
- (2) vendor payments (i.e. payments made on behalf of a household to a third party);
- (3) lump sum payments: as defined in food stamp regulations at 8.139.520.9 NMAC;
- (4) loans;
- (5) charitable contributions from nonprofit agencies to meet household expenses;
- (6) earned income tax credits;
- (7) value of food stamps;
- (8) TANF annual clothing allowance;
- (9) monies received for the care of a third party beneficiary who is not a household member;

and

- (10) monies excluded by federal statute, as listed at 8.139.527 NMAC.

[8.150.520.13 NMAC - Rn, 8.150.522.8 NMAC & A, 10-1-12]

8.150.520.14 TOTAL GROSS INCOME: The household's total gross income is determined by adding countable earned and unearned income. Income received from self-employment and by ineligible aliens is not counted in full. The income of migrant households may be annualized and averaged. The household's total gross income must be equal to or less than income standards published annually in the LIHEAP state plan.

[8.150.520.14 NMAC - Rn, 8.150.524.8 NMAC & A, 10-1-12]

8.150.520.15 INCOME STANDARD: Income guidelines for eligibility will be updated at the beginning of each federal fiscal year as required by federal statute. The guidelines will be effective for the entire federal fiscal year beginning October 1 and ending September 30. The income guidelines will be determined by the secretary of the human services department before the beginning of the new federal fiscal year and published annually in the LIHEAP state plan.

[8.150.520.15 NMAC - Rn, 8.150.524.9 NMAC & A, 10-1-12]

8.150.520.16 CRISIS INTERVENTION STANDARDS: Households who are over the income standards but meet the crisis intervention requirements may be eligible for a crisis LIHEAP benefit. If a household is over the income standards, HSD staff should explore the household's financial circumstances and take into account any

financial crisis in the household that may have resulted in the household's inability to meet its utility or fuel expenses in the past 30 days. In these cases, the household's net income, rather than gross income, may be considered to determine income eligibility for LIHEAP benefits.

[8.150.520.16 NMAC - Rn, 8.150.500.9 NMAC & A, 10-1-12; A, 10-1-15]

8.150.520.17 NET INCOME:

A. Definition: Net income, except for net business income, for the purposes of LIHEAP policy, is not gross income minus deductions. Rather, it is gross income minus household emergency expenses incurred and paid in 30 days prior to the application date or the initial payment, during that period, of a bill resulting from a recent household emergency.

B. Calculation: To determine the net income for a household, subtract any allowable household emergency expenses from the household's gross income.

C. No emergency expenses: If the household did not incur and pay household emergency expenses or an initial payment for a recent household emergency in the 30 days prior to the application date for LIHEAP benefits, gross income is to be used to make the determination of eligibility.

[8.150.520.17 NMAC - Rn, 8.150.526.9 NMAC & A, 10-1-12]

8.150.520.18 HOUSEHOLD EMERGENCY EXPENSES:

A. Definition: Household emergency expenses are defined as expenses incurred and paid in full or in part by the household in the 30 days prior to the application date.

B. Examples of emergency expenses include:

- (1) hospital, ambulance, doctor and dental bills;
- (2) laboratory and other testing bills;
- (3) prescriptions and non-prescription items ordered by a licensed health care professional;

and

- (4) services provided or ordered by a licensed health care professional; or
- (5) non-elective medical expenses;
- (6) emergency medical expenses, such as:
- (7) hospital bills; and
- (8) ambulance bills;
- (9) expenses resulting from the death of a household member or other major household

crisis; or

- (10) repair or replacement of the household's primary vehicle.

C. Licensure exemption: Native American practitioners (medicine men), though not licensed by the state, are specifically recognized by HSD as health care providers under this policy.

[8.150.520.18 NMAC - Rn, 8.150.526.10 NMAC & A, 10-1-12]

8.150.520.19 VERIFICATION: To be considered, the household must provide proof of the incurred expense(s) and proof of payment.

[8.102.520.19 NMAC - Rn, 8.150.526.11 NMAC & A, 10-1-12]

HISTORY OF 8.150.520 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]

TITLE 8 SOCIAL SERVICES
CHAPTER 150 LOW INCOME HOME ENERGY ASSISTANCE PROGRAM
PART 600 DESCRIPTION OF PROGRAM/BENEFITS

8.150.600.1 ISSUING AGENCY: New Mexico Human Services Department.
[7-1-95, 11-1-95; 8.150.600.1 NMAC - Rn, 8 NMAC 22.LHP.000.1, 10-1-01]

8.150.600.2 SCOPE: The rule applies to the general public.
[7-1-95, 11-1-95; 8.150.600.2 NMAC - Rn, 8 NMAC 22.LHP.000.2, 10-1-01]

8.150.600.3 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; 8.150.600.3 NMAC - Rn, 8 NMAC 22.LHP.000.3, 10-1-01]

8.150.600.4 DURATION: Permanent.
[7-1-95, 11-1-95; 8.150.600.4 NMAC - Rn, 8 NMAC 22.LHP.000.4, 10-1-01]

8.150.600.5 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, 8.150.600.5 NMAC - Rn, 8 NMAC 22.LHP.000.5, 10-1-01]

8.150.600.6 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; 8.150.600.6 NMAC - Rn, 8 NMAC 22.LHP.000.6, 10-1-01]

8.150.600.7 DEFINITIONS: [RESERVED]

8.150.600.8 BENEFITS - ISSUANCE AND USE AND VENDOR RESPONSIBILITIES:

- A. Issuance of benefits: Benefits are issued in one of the following methods:
- (1) recipient warrants: HSD issues benefits directly to recipients through recipient warrants when appropriate and only as a last resort;
 - (2) vendor payments: HSD issues benefits directly to the vendor;
 - (a) HSD will provide the account name and customer account number for the LIHEAP eligible household to the vendor specified by the household; the vendor will notify HSD of mismatches within a specified time frame;
 - (b) vendors who carry customer accounts will credit eligible households with the amount of the LIHEAP regular benefit no more than 30 days from the time of the payment; vendors who provide fuel on demand will provide fuel to eligible households equal to the amount of the LIHEAP regular benefit no more than 30 days from the date of the eligible household's contact with the vendor to make arrangements for the provision of such fuel;
 - (c) vendors shall return to the LIHEAP central office excess LIHEAP benefits from the account originally credited if that account is closed.
 - (d) vendors should transfer a LIHEAP benefit credit on an account that is closed after the credit is posted; the transfer must be to a new or existing account for the new residence of the recipient household; the vendor must document the transfer in a manner that meets generally accepted audit standards;
 - (e) vendors may refund LIHEAP benefit credit to a household under certain circumstances when the household moves or will not have service with the company at their residence; the vendor must document the transfer in a manner that meets generally accepted audit standards;
 - (f) vendors must refund LIHEAP benefit credits on closed accounts to HSD when the credit cannot be transferred to a new account or the household cannot be located.
- B. Benefit use: The recipient household which receives a direct payment is responsible for using the benefit for the purpose intended:
- (1) to purchase fuel, such as propane, wood, coal, kerosene, fuel oil or other unregulated fuels;
 - (2) to pay the household's utility charges, such as those for electric or natural gas services;

- (3) to purchase gasoline or tools needed when a household gathers/cuts its own firewood;
- (4) to pay a landlord for the utility costs that are included in the rent payment;
- (5) to pay for a deposit obligation needed to initiate or continue service.

[7-1-95, 11-1-95, 11-15-96, 10-01-97; 8.150.600.8 NMAC - Rn, 8 NMAC 22.LHP.601 & A, 10-1-01; A, 10-1-05; A, 10-1-06; A, 10-1-12; A, 10-1-2015]

8.150.600.9 STATE LIHEAP FUNDING:

- A. Purpose: To reduce the home heating and cooling costs of low-income New Mexicans.
- B. Benefits:

- (1) payments that assist low-income households to reduce the costs of home heating/cooling;
- or
- (2) weatherization services for the homes of low-income households.

[8.150.600.9 NMAC - Rn, 8.150.610.8 NMAC & A, 10-1-12]

8.150.600.10 FUND USES: Unless specified by the New Mexico state legislature, the secretary of the human services department has the authority to specify the uses of the funding. Funding will be used for purposes similar to those allowed under the federal low income home energy assistance program.

[8.150.600.10 NMAC - Rn, 8.150.610.9 NMAC & A, 10-1-12]

8.150.600.11 WINTER MORATORIUM ON UTILITY DISCONNECTION: No utility vendor regulated by the Public Regulation Commission shall discontinue or disconnect residential utility service for heating from November 15 through March 15 of the subsequent year for certain customers.

A. Administering authority: The human services department or a tribal entity that administers its own low income home energy assistance program are designated as the authorities to identify customers who meet the certain qualifications for the winter moratorium. The customer must also meet the New Mexico public regulation commission requirements to receive winter moratorium protection.

B. Qualification: Customers who qualify for the winter moratorium must meet the following income standards:

- (1) the customer is a member of a household in which the total gross income is at or below 150% of the current federal poverty guidelines; or
- (2) one or more of the household members:
 - (a) receive supplemental security income; or
 - (b) are eligible for any federally funded assistance program administered by ISD with income guidelines at or below 150% of the current federal poverty guidelines;
- (3) the person in whose name a utility account is listed and the name of the public assistance recipient need not match in order for the customer to be entitled to protection under this section.

C. Proof of qualification:

- (1) HSD generated approval notice for public assistance programs whose income guidelines are at or below 150% of the current federal poverty guidelines;
- (2) computer generated notice from HSD; or
- (3) form completed by hand from a local ISD office.

[8.150.600.11 NMAC - Rn, 8.150.610.10 NMAC & A, 10-1-12; A, 10-1-15]

HISTORY OF 8.150.600 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]

TITLE 8 SOCIAL SERVICES
CHAPTER 150 LOW INCOME HOME ENERGY ASSISTANCE PROGRAM
PART 620 BENEFIT DETERMINATION GENERAL

8.150.620.1 ISSUING AGENCY: New Mexico Human Services Department.
[7-1-95, 11-1-95; 8.150.620.1 NMAC - Rn, 8 NMAC 22.LHP.000.1, 10-1-01]

8.150.620.2 SCOPE: The rule applies to the general public.
[7-1-95, 11-1-95; 8.150.620.2 NMAC - Rn, 8 NMAC 22.LHP.000.2, 10-1-01]

8.150.620.3 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; 8.150.620.3 NMAC - Rn, 8 NMAC 22.LHP.000.3, 10-1-01]

8.150.620.4 DURATION: Permanent.
[7-1-95, 11-1-95; 8.150.620.4 NMAC - Rn, 8 NMAC 22.LHP.000.4, 10-1-01]

8.150.620.5 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, 8.150.620.5 NMAC - Rn, 8 NMAC 22.LHP.000.5, 10-1-01]

8.150.620.6 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; 8.150.620.6 NMAC - Rn, 8 NMAC 22.LHP.000.6, 10-1-01]

8.150.620.7 DEFINITIONS: [RESERVED]

8.150.620.8 POINT SYSTEM: A point allocation system is used to insure that the highest level of assistance is provided to those households with the highest energy needs, lowest income and largest household member size while giving priority to those households with vulnerable members.
[7-1-95, 11-1-95, 11-15-96, 10-1-97, 10-1-00; 8.150.620.8 NMAC - Rn, 8 NMAC 22.LHP.620 & A, 10-1-01]

8.150.620.9 CALCULATING THE BENEFIT/ASSIGNMENT OF POINTS: To determine the amount of the benefit for households with an energy cost, HSD assigns points for each following factors.

A. Energy costs points: Points are assigned based on the energy burden at the household's current residence for households that have a direct cost for heating or cooling expenses.

(1) Energy burden: Energy burden is "the expenditures of the household for home energy divided by the income of the household." Points are assigned to the household by determining the households' percentage of energy burden. The point allocation for energy burden is:

- (a) 0 points for 0 - 5% energy burden;
- (b) 1 point for 6 - 10% energy burden;
- (c) 2 points for 11 - 15% energy burden; or
- (d) 3 points for 16% or more energy burden.

(2) Additional Energy Burden: If the household's energy burden is for the use of propane, an additional two (2) points will be allocated.

(3) Receipt of energy burden points: Certain households do not receive energy burden points:

- (a) households whose utilities are included in the rent; or
- (b) households that use wood to heat their home and do not purchase wood.

(4) Energy standard allowance (ESA): Each year an ESA will be determined. The standard amount will be based on the fuel and electricity standards calculated for the standard utility allowance (SUA) used in the New Mexico supplemental nutrition assistance program (SNAP). The ESA may be used when the monthly utility costs provided by the applicant are: a) less than the standard; or b) the applicant has new service and costs are not available.

B. Income points: HSD assigns income points using the household's monthly total countable gross income and the household size. The number of points is determined by identifying what percentage the household's income is of the federal poverty guidelines (FPG) for the LIHEAP FFY. For example, if the total monthly income is 60% of the FPG, the household will receive three income points. (See below.)

- (1) 3 points - income is 0 - 100% of the FPG
- (2) 2 points - income is 100 - 150% of the FPG

C. Vulnerable population points: HSD assigns additional points for any household members in the following vulnerable groups.

- (1) Age 60 and over: Two (2) points are assigned to eligible households based on the inclusion of one or more household members age 60 or over as determined by birthdate data.
- (2) Age 5 and under: Two (2) points are assigned to eligible households based on the inclusion of one or more household members age 5 and under as determined by birthdate data.
- (3) Disability: Two (2) points are assigned to eligible households having one or more members with a disability. Disability is defined as physical or mental impairment resulting in substantial reduction in the ability of an individual to care for him/herself or carry out normal activities. When one or more members receive disability based income, the household is entitled to the points. A doctor's statement of current disability will be required for assignment of the point for this factor if the disabled member does not receive disability-based income.

[7-1-95, 11-1-95, 11-15-96, 10-1-97, 12-1-97, 10-1-00; 8.150.620.9 NMAC - Rn, 8 NMAC 22.LHP.621.1 & A, 10-1-01; A, 10-1-05; A, 10-01-06; A, 10-01-07; A, 10-1-15]

8.150.620.10 CALCULATION OF BENEFIT AMOUNT:

A. Prior to the start of the application period projections will be made to determine point value. Anticipated grant of award, potential applicants and the current economy of the state of New Mexico will be used to determine the point value. Households eligible for a LIHEAP benefit will have their point total multiplied times the point value. The product is the amount of payment that is issued to the utility vendor for credit on the household's account or is sent to the household.

B. Based on the availability of funds, benefits are issued for eligible applications received through September 30.

C. At the direction of the HSD secretary, the point value for energy cost points, income points, vulnerable population points, additional energy burden points, or any of their parts, may be adjusted as necessary taking into consideration the factors described in Subsection A of 8.150.620.10 NMAC.

[7-1-95, 11-1-95, 11-15-96, 10-1-97, 10-15-98, 10-1-00; 8.150.620.10 NMAC - Rn, 8 NMAC 22.LHP.621.2, 10-1-01; A, 10-01-05; A, 10-01-06; A, 10-1-15]

8.150.620.11 [RESERVED]

[8.150.620.11 - N, 10-1-01; A, 10-01-06; A, 10-01-07; Repealed, 10-1-12]

8.150.620.12 RETROACTIVE BENEFIT COVERAGE: Households that were denied LIHEAP benefits or received a lesser benefit than they were entitled to but, prevail in an appeal through an agency conference or fair hearing, are entitled a retroactive benefit.

[8.150.620.12 - N, 10-1-12]

HISTORY OF 8.150.620 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]