



STATE OF NEW MEXICO  
HUMAN SERVICES DEPARTMENT



# HUMAN SERVICES REGISTER

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## I. DEPARTMENT

HUMAN SERVICES DEPARTMENT

## II. SUBJECT

LIHEAP New Mexico Administrative Code (NMAC)

## III. PROGRAMS AFFECTED

Low Income Home Energy Assistance Program (LIHEAP)

## IV. ACTION

PROPOSED RULE

## V. BACKGROUND

Federal Low Income Home Energy Assistance Program (LIHEAP) statute requires HSD to seek public comments with regard to the administration of LIHEAP. The Human Services Department is proposing language to the LIHEAP New Mexico Administrative Code (NMAC) to align the administration of LIHEAP with our Automated System Program and Eligibility Network (ASPEN). The following provides additional background as to the changes being proposed:

## VI. PROPOSED REGULATIONS

The Department proposes to amend section 8.150.100 NMAC to include additional language to:

- define a life-threatening situation;
- clarify financial eligibility which must be at or below 150% of the Federal Poverty Limit;
- reference existing regulation regarding timely issuance of benefits;
- incorporate LIHEAP statute citation;
- define homeless applicants with energy costs;
- define crisis and life threatening crisis applications;
- clarify the time allowed for processing a crisis application (48 hours, excluding weekends and holidays, for crisis and 18 hours, excluding weekends and holidays, for life threatening);

- correct wording to identify clients as applicants/recipients; and
- place emphasis on the application assistance, referral services, timely processing, and claim processing.

The Department proposes to amend section 8.150.110 NMAC to include additional language to:

- correct wording to identify clients as applicants/recipients;
- clarify assistance available for the applicants/recipients and to include our online application via the state's Web Application Portal;
- clarify the application process for LIHEAP benefits, and crisis processing for applicants;
- clarify the application period for benefits for the Federal Fiscal Year from October 1 ending September 30;
- clarify that if the household fails to provide the verification required for processing, ISD may deny the applications 30 days from the date received on the application;
- clarify notice language regarding approvals and denials; and
- clarify that there is not a second application period in any federal fiscal year and HSD may issue a supplemental benefit if deemed necessary.

The Department proposes to amend section 8.150.410 NMAC to include additional language to:

- clarify the proof necessary for a crisis or life threatening crisis intervention;
- clarify additional community referrals provided by the local ISD office;
- clarify that applicants who receive subsidized rent with utilities included, are not eligible unless they incur addition out-of-pocket heating or cooling costs;
- clarify eligibility for HSD administered LIHEAP for Native American-applicants, residing on a different tribes' land, that have not received LIHEAP benefits from their tribal government for the current LIHEAP season; and
- clarify the claims process for erroneously issued benefits.

The Department proposes to amend section 8.150.500 NMAC to include additional language to:

- clarify that a separate LIHEAP interview is needed if the information provided is questionable, in the case of a crisis/life threatening situation, and if the applicant/recipient has not been previously interviewed for any other ISD programs;
- clarify an additional request for enumeration information only if the number has not been issued by the social security administration or if the number is questionable;
- identify our new Automated System Program and Eligibility Network, which replaced the ISD2 system; and
- clarify additional verification requirements necessary to meet the federal requirements:
  - (1) proof of the household's main fuel expense for household's current residence, if the applicant is not requesting LIHEAP for the main heating or cooling fuel source;

- (2) when the applicant is requesting assistance with propane, the applicant must provide two (2) consecutive purchase receipts for propane or a signed statement or billing from the utility vendor.

The Department proposes to amend section 8.150.520 NMAC to include additional language to:

- correct the title section from earned income to income and
- correct the crisis spelling.

The Department proposes to amend section 8.150.600 NMAC to include additional language to:

- clarify the methods of issuing LIHEAP benefits;
- clarify situations when a warrant may be issued to a recipient;
- clarify that ISD will provide the account name and customer account number to the vendor;
- clarify that vendors shall return all excess LIHEAP benefits from the account if closed to the central office LIHEAP;
- clarify that the recipient household which receives a direct payment is responsible for using the benefit for the purpose intended. A LIHEAP benefit is to be applied to their heating or cooling costs;
- clarify that utility vendors regulated by the Public Regulation Commission shall not disconnect residential utility service for heating from November 15 through March 15 of the subsequent year; and
- clarify HSD generated approval notices for public assistance programs whose income guidelines are at or below 150% of the current federal poverty guidelines. The notice is proof of qualification for the winter moratorium on utility disconnection.

The Department proposes to amend section 8.150.620 NMAC to include additional language to:

- indicate additional points will be awarded if the household's energy burden is for the use of propane;
- clarify the Energy Standard Allowance (ESA) and energy burden points;
- clarify eligible applications received through September 30 will be considered eligible based on the availability of funds; and
- add propane point allocation language at the direction of the HSD Secretary as described in A of 8.150.620.10 NMAC.

This register and proposed 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 proposed regulations may be requested by contacting Income Support Division Policy and Program Development Bureau at 505-827-7274.

## VII. PUBLICATION DATE

October 1, 2015

## VIII. PUBLIC HEARING

A public hearing to receive testimony on this proposed regulation will be held on July 30, 2015, at 1:00 P.M. The hearing will be held in the Income Support Division Conference room, located on the lower level of Pollon Plaza at 2009 S. Pacheco St., Santa Fe, NM 87505. Parking accessible for persons with physical impairments is available. Individuals wishing to testify may contact the Income Support Division, P.O. Box 2348, Santa Fe, NM 87504-2348, or by calling 505-827-7227.

If you are a person with a disability and you require this information in an alternative format, or you require a special accommodation to participate in any HSD public hearing, program, or service, please contact the Assistant General Counsel/American Disabilities Act Coordinator, at 505-827-7720 or through the New Mexico Relay system, at 711 or toll free at 1-800-659-1779. The Department requests at least a 10-day advance notice to provide requested alternative formats and special accommodations.

## IX. ADDRESS

Interested persons may address written or recorded comments to:

Human Services Department  
P.O. Box 2348 Pollon Plaza  
Santa Fe, NM 87504-2348

Interested persons may also address comments via electronic mail to:

[HSD-isdrules@state.nm.us](mailto:HSD-isdrules@state.nm.us)

## X. PUBLICATION

Publication of these proposed regulations approved on \_\_\_\_\_  
by:

June 12, 2015



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BRENT EARNEST, SECRETARY  
HUMAN SERVICES DEPARTMENT