

TITLE 476
NEBRASKA LOW-INCOME ENERGY ASSISTANCE PROGRAM

CHAPTER 1-000 INTRODUCTION

1-001 Legal Basis: The Nebraska Low-Income Energy Assistance Program (LIHEAP) is authorized by the Energy Policy Act of 2005, 42 U.S.C. §§ 8621-8630 and 45 C.F.R. § 96. The program is funded through annual federal appropriations.

1-002 Purpose: LIHEAP helps low-income households stay safe and healthy by providing financial assistance to offset the costs of heating and cooling. LIHEAP particularly helps households that pay a high portion of household income for home energy to meet immediate home energy needs.

1-003 Administering Agency: The administering agency is the Nebraska Department of Health and Human-Services (the Department).

1-004 Definitions:

Agency-Caused Overpayment means an overpayment caused by the Department's error or failure to take action.

Application Date means the date the Department receives a signed application or request to add LIHEAP to a household's current Economic Assistance case.

Available Funds means the amount of funding appropriated to the Department for LIHEAP for each federal fiscal year.

Cooling Season means June 1 through August 31 of each federal fiscal year.

Crisis Assistance means assistance intended to alleviate a crisis situation.

Crisis Situation means a household that is under immediate threat of loss of home energy because it has received a shut off notice, had utilities discontinued, lacks energy service delivery, or anticipates removal from a provider's budget plan.

Economically-Vulnerable Household means a household that is unprotected from increases in energy costs and therefore must use its own resources to meet energy cost increases.

Heating Season means October 1 through March 31 of each federal fiscal year.

Home Energy means a source of residential heating or cooling.

Household means a person or group of people living together as one economic unit for whom residential energy is customarily purchased in common or paid through rent.

Intentional Program Violation (IPV) means an action by a person to receive or attempt to receive benefits to which the person is not entitled by (1) making a false statement, either verbally or in writing; (2) concealing information; or (3) altering one or more documents.

Multi-Family Arrangement means a living situation where more than one household occupies a single structure or building and includes both communal living arrangements where residential energy is billed in common and apartments where residential energy is billed separately to each unit.

Overpayment means a payment of more than the amount a household is eligible to receive.

Overpayment Status means a household has received an Overpayment of more than \$100 and the Overpayment has not yet been fully repaid to the Department.

Program Year means October 1 through September 30.

Provider means utility or other household energy supplier.

Single-Family Arrangement means a living situation where one household occupies a single structure or building.

Underpayment means a payment of less than the amount a household is eligible to receive.

1-005 Outreach Services: The Department provides outreach services to potential clients, particularly those who are elderly, disabled, under age six, and migrant farm workers.

1-006 Program Funding: For each Program Year, the Department accepts and processes applications and crisis assistance requests according to the earliest Application Date until the Department determines that pending payments will exhaust the Available Funds for that Program Year. Upon making this determination, the Department will accept no more applications or crisis requests for that Program Year.

1-006.01 Excess Funding: If the Department determines that Available Funds for a Program Year will exceed pending payments, the Department will allocate to eligible households supplemental payments as determined by the Department.

CHAPTER 2-000 APPLICATION AND ELIGIBILITY

2-001 Application: To apply for LIHEAP, a Household must complete an agency-approved application or ask the Department to add a request for LIHEAP to the Household's current Economic Assistance case.

2-001.01 Application Processing: The Department must determine eligibility within 30 days of the Application Date. This deadline may be extended if the Household fails to provide requested documentation within the timeframe specified to do so.

2-001.02 Approval: An approved application establishes Household eligibility for the remainder of the Program Year, notwithstanding changes in Household income or composition.

2-001.03 Re-Application: To re-apply after a denial, a Household must submit a new application or request.

2-002 Eligibility: To qualify for LIHEAP, a Household must:

1. Be considered an Economically-Vulnerable Household;
2. Meet income guidelines according to Household size;
3. Meet citizenship and residency requirements; and
4. Not otherwise be disqualified or ineligible.

2-002.01 Income Guidelines: The total annual income of a Household may not exceed 130% of the federal poverty level. For purposes of calculating and treating income for LIHEAP eligibility, the Department applies the rules and regulations from the Supplemental Nutrition Assistance Program, Title 475 NAC.

2-002.02 Citizenship and residency: For purposes of determining LIHEAP eligibility, the Department applies the residency and citizenship/alien status requirements from the Supplemental Nutrition Assistance Program, Title 475 NAC. A person who does not meet the citizenship and residency requirements must be excluded from a Household for purposes of determining eligibility for LIHEAP.

2-002.03 Ineligibility: A Household that includes a person who is ineligible under this section may still remain eligible for LIHEAP. Household size will be reduced by the number of ineligible Household members for purposes of determining eligibility and payments.

2-002.03A Misrepresenting Residence: Any person convicted in federal or state court of having fraudulently misrepresented his/her residence in order to obtain Home Energy assistance in two or more states is ineligible for LIHEAP for ten years from the date of conviction.

2-002.03B Fleeing Felon: A person is ineligible for LIHEAP during any period in which the person is

1. Fleeing to avoid prosecution or custody or confinement after conviction for a crime or attempt to commit a crime that is a felony under the law of the place from which the person is fleeing; or
2. Violating a condition of federal or state probation or parole.

2-002.03C Intentional Program Violations: A person who commits an IPV is ineligible for LIHEAP as follows:

1. A person is ineligible for LIHEAP during the period the person is disqualified from receiving other Economic Assistance benefits due to a non-LIHEAP IPV.
2. A person who commits a LIHEAP IPV is ineligible as follows:
 - a. For a First IPV, the person becomes ineligible for any LIHEAP benefits for the remainder of the Program Year and the next full Program Year.
 - b. For a Second IPV, the person becomes ineligible for any LIHEAP benefits for the remainder of the Program Year and the next three full Program Years.
 - c. For a third (and any subsequent) IPV, the person becomes permanently ineligible for LIHEAP benefits.

2-003 Cooling Assistance: To qualify for cooling assistance, a Household must qualify for LIHEAP and include a Household member who:

1. Is a child under age six who receives ADC;
2. Is age 70 or older;
3. Has a severe illness or condition which is aggravated by extreme heat as verified by a medical statement signed by a licensed healthcare provider; or
4. Has received air conditioner from the Department within four years of the Application Date.

2-004 Crisis Assistance

2-004.01 Eligibility: To qualify for Crisis Assistance, a Household must be eligible for LIHEAP, be in a Crisis Situation and have an unanticipated inability to pay Home Energy costs because within the most recent 90 days the Household has experienced:

1. An unanticipated medical or household expense;
2. A significant, permanent and involuntary loss of work hours, wages, or employment;
3. The departure of a primary wage earner;
4. The inability of a primary wage earner to work because of illness or injury;
5. A significant income loss because of the death of a Household member.

2-004.01A A Household may also be eligible for an unspecified crisis related to a loss of income or inability to pay as determined in the Department's discretion.

2-004.02 Time Limits for Crisis Assistance: For an eligible Household, the Department must provide Crisis Assistance to resolve the Crisis Situation:

1. within 48 hours of receiving the application, or
2. within 18 hours of receiving the application if the Household includes a Household member who uses a medical device that requires electricity or has a severe illness or condition which is aggravated by extreme heat as verified by a medical statement signed by a licensed healthcare provider.

2-004.03 Ineligibility

2-004.03A: A Household is ineligible for Crisis Assistance during any period a Household member is under a sanction for non-cooperation with Child Support Enforcement or the ADC - Employment First program.

2-004.03B: A Household is ineligible for Crisis Assistance to pay any bill incurred during any period a Household is in Overpayment Status.

2-004.03C: A Household is ineligible for Crisis Assistance to pay any bill incurred during any period a Household member is under a sanction for an IPV.

2-004.04 Alternate Sources of Crisis Assistance: The Department must provide a client who is denied Crisis Assistance with information about potential alternate sources of assistance.

2-004.05. Deposit or Reconnect Fees: To qualify for assistance with a deposit or reconnect fee, the Household must be eligible for Crisis Assistance and must have received no deposit or reconnect assistance for the same fuel type within the previous 36 months unless extenuating circumstances exist in the Department's discretion.

2-005 Furnace or Air Conditioner Repair or Replacement Assistance:

2-005.01 To qualify for repair or replacement assistance for a furnace or central air conditioner in a home owned or being purchased by a Household, the Household must be eligible for LIHEAP heating (for furnace) or cooling (for air conditioning) assistance, provide documentation that emergency repair or replacement is necessary, provide estimates for the cost of repair or replacement as requested by the Department, and have received no repair or replacement assistance for a furnace or air conditioner within the previous 60 months unless extenuating circumstances exist as determined in the Department's discretion.

2-005.02 To qualify for assistance to purchase a window air conditioning unit, the Household must be eligible for cooling assistance, provide estimates for the cost of purchase as requested by the Department, and have received no assistance to purchase a window air conditioning unit within the previous 60 months unless extenuating circumstances exist as determined in the Department's discretion.

2-006 Notice to Household

2-006.01 Approval: When a Household is approved for assistance, the Department will send written notice indicating (1) that the Department has made a payment to a Provider on behalf of the Household or (2) the payment schedule by which the Department will make payment(s) directly to the Household.

2-006.02 Denial: When the department denies a Household's application or request, the Department will send to the Household written notice that states the reason for denial and notifies the Household of its right to appeal.

CHAPTER 3-000 PAYMENTS

3-001 Types The Department makes the following types of LIHEAP payments:

1. Heating (during the Heating Season);
2. Cooling (during the Cooling Season);
3. Crisis Assistance (year-round); and
4. Supplemental, as determined by the Department based upon funding availability.

3-002 Payment Recipients

3-002.01 Provider: The Department makes payment on behalf of an eligible Household directly to a Provider. To ensure payment, a Household must provide the Department with the applicable Provider name and account number.

3-002.01A If a Household disconnects service from a Provider that has received payment from the Department on the Household's behalf, and at the time of the disconnect the Household has a credit balance with the Provider, the Provider will refund the full credit balance to the Department. If the most recent payment by the Department to the Provider on behalf of the Household occurred before the current Program Year, the Department will remit the full credit amount to the Household. If the most recent payment by the Department to the Provider on behalf of the Household occurred during the current Program Year, the Department will remit to the Household the difference between the credit balance and the total amount of all payments by the Department to the Provider on behalf of the Household during the Program Year, if any.

3-002.02 Household: Only if utilities are included in rent or a Provider cannot or will not receive electronic payments from the Department may the Department pay a Household directly.

3-002.02A Restrictions: A Household may not access LIHEAP funds, either by ATM withdrawal or point-of-sale purchase, from liquor stores, casinos, gambling casinos, gaming establishment, or any retail establishment that provides adult-oriented entertainment where performers disrobe or perform in an unclothed state for entertainment.

3-003 Payment Amounts and Requirements

3-003.01 Heating and Cooling Payments: The Department makes heating and cooling payments according to the tables published at 476-000-200 and 476-000-201 which are based upon the federal poverty level and the following factors:

1. Fuel type (if applicable);
2. Household income;
3. Household size; and
4. Whether the Household resides in a Single-Family Arrangement or a Multi-Family Arrangement.

The Department can redetermine a Household's payment level only if the Household experiences a change in composition or a significant change in income, and only if such change causes the payment level to increase.

3-003.01A Payment to Household for Propane, Fuel Oil, or Kerosene: When the Department makes payment directly to a Household for propane, fuel oil, or kerosene, it will make a payment for \$500 or less in one lump sum and more than \$500 in two equal installments over a two-month period.

3-003.01B Payment to Household for Electricity or Natural Gas: When the Department makes payment directly to a Household for electricity or natural gas, it will make a payment of \$150 or less in one lump sum and more than \$150 in two equal installments over a two-month period.

3-003.02 Crisis Assistance Payments: The Department makes Crisis Assistance payments for no more than the amount necessary to alleviate the Crisis Situation, up to \$500 per Program Year. If extenuating circumstances exist, the Department may authorize a Crisis Assistance payment for more than \$500. To remain eligible for future Crisis Assistance, a Household that receives a Crisis Assistance payment (including a deposit or reconnect fee payment) directly from the Department must provide the Department with verification that the Household has paid the Provider.

3-003.03 Furnace or Central Air Conditioner Repair or Replacement Assistance Payments: The Department may pay up to \$750 to repair or replace a central air conditioning unit. Before the Department can authorize payment, the Household must pay or arrange to pay the repair or replacement cost that exceeds the Department's portion and must provide the Department with receipts or a payment agreement. If extenuating circumstances exist, the Department may authorize repair or replacement assistance for more than \$750.

3-003.04 Window Air Conditioner Payments: The Department may pay for a window air conditioner unit. A Household that receives payment for a window air conditioning unit directly from the Department must provide the Department with a receipt that documents purchase of the unit or the Department will issue an Overpayment notice and seek repayment from the Household.

3-004 Incorrect Payments

3-004.01 Underpayments: The Department must correct any Underpayment upon discovery.

3-004.02 Provider Payee Errors: If the Department pays the wrong Provider on behalf of a Household, the Department must correct the error by seeking a refund from the wrongfully-paid Provider and paying the correct Provider.

3-004.03 Overpayments:

3-004.03A Agency-Caused Overpayments: The Department will not recoup Agency-Caused Overpayments.

3-004.03B Overpayments inadvertently caused by a Household or caused by an IPV are treated as follows:

1. The Department will take no action to recoup an Overpayment of less than \$100.
2. The Department will place a Household that has received an Overpayment of \$100 or more into Overpayment Status until the Overpayment has been fully recouped. The Department will recoup an Overpayment by reducing LIHEAP benefits of a Household in Overpayment Status.