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**IDAPA 16
TITLE 04
CHAPTER 14**

16.04.14 - RULES GOVERNING THE LOW INCOME HOME ENERGY ASSISTANCE PROGRAM

000. LEGAL AUTHORITY.

This program is authorized by the Low-Income Home Energy Assistance Act of 1981, 42 U.S.C Sections 8621 to 8629, and by provisions of Section 56-202 Idaho Code. (3-30-07)

001. TITLE, SCOPE, AND LIMITATIONS.

01. Title. These rules are to be cited as IDAPA 16.04.14, "Rules Governing the Low Income Home Energy Assistance Program," and may also be known as LIHEAP. (3-30-07)

02. Scope. The intent of the program is to provide assistance to eligible low income households particularly those with the lowest incomes, that pay the highest proportion of their income for home energy, primarily in meeting their immediate home energy needs. (7-1-99)

03. Program Limitation. This federally funded program does not entitle any household to a certain amount or form of assistance. An eligible participant household will receive one (1) benefit payment from the standard program funding each program year. (3-30-07)

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements that pertain to the interpretations of the rules of this chapter. These documents are available for public inspection as described in Sections 005 and 006 of these rules. (3-30-07)

003. ADMINISTRATIVE APPEALS.

Appeals and proceedings are governed by IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." (3-30-07)

004. INCORPORATION BY REFERENCE.

The following document is incorporated by reference in this chapter of rule: Low Income Home Energy Assistance Program (LIHEAP) Intake Manual, 2006. The manual is available on the Internet at http://www.healthandwelfare.idaho.gov/Portals/_Rainbow/Manuals/SRBenefits/SR_eManuals.htm. The manual is also available at the mailing address listed in Section 005 of this rule, and at Community Action Agencies. (3-30-07)

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS -- TELEPHONE -- INTERNET WEBSITE.

01. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (3-30-07)

02. Mailing Address. The mailing address for the business office is Idaho Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036. (3-30-07)

03. Street Address. The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83702. (3-30-07)

04. Telephone. (208) 334-5500. (3-30-07)

05. Internet Website. Department Internet address is: <http://www.healthandwelfare.idaho.gov>. (3-30-07)

006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS REQUESTS.

01. Confidential Records. Any information about an individual covered by these rules and contained

in Department records must comply with IDAPA 16.05.01, "Use and Disclosure of Department Records." (3-30-07)

02. Public Records. The Department of Health and Welfare will comply with Sections 9-337 through 9-350, Idaho Code, when requests for the examination and copying of public records are made. Public records in the custody of the Department of Health and Welfare are subject to disclosure, unless otherwise exempted by state or federal law. (3-30-07)

007. (RESERVED).

008. AUDIT, INVESTIGATION, AND ENFORCEMENT.

In addition to any actions specified in these rules, the Department may audit, investigate, and take enforcement action under the provisions of IDAPA 16.05.07, "Investigation and Enforcement of Fraud, Abuse, and Misconduct." (3-30-07)

009. (RESERVED).

010. DEFINITIONS.

Definitions applicable to this chapter of rules. (3-30-07)

01. Community Action Agency. A private non-profit organization serving the low income population in specified counties of the state with which the Department has entered into a contract for the provision of services for purposes of LIHEAP. (3-30-07)

02. Crisis Assistance. Energy assistance provided to an eligible participant household to reduce or eliminate an energy related health threatening situation to the household. (3-30-07)

03. Department. The Department of Health and Welfare or its designee. (3-30-07)

04. Fraud. Recipient fraud is indicated where there appears to be a deliberate attempt to conceal or misrepresent pertinent information which could affect eligibility or grant amounts. (7-1-99)

05. Head of Participant Household. The person designated by the household members to receive energy assistance benefit in behalf of the household and in whose favor the energy assistance warrant is written. (7-1-99)

06. Income. Income is the gross amount of moneys actually received in the participant household from all sources. (4-5-00)

07. Intake Manual. Manual used by community action agencies for procedural policy and benefit calculation factors, which is published annually by the Department. (3-30-07)

08. Participant. An individual or group of individuals who has made application for the Low Income Home Energy Assistance Program from the state of Idaho. (3-30-07)

09. Participant Household. A participant household is one (1) of the following: (3-30-07)

a. An individual who lives alone; or (3-30-07)

b. A group of individuals who are living together as one (1) economic unit where residential energy is customarily purchased in common or they make undesignated payments for energy in the form of rent. (3-30-07)

10. Primary Fuel. The type of fuel declared by the participant household to be the major source of their home heating. (7-1-99)

11. Undocumented Resident. Individuals who enter the United States illegally and who have not obtained legal resident status. (3-30-07)

011. -- 099. (RESERVED).

100. PARTICIPANT CASE RECORD.

The participant case record is the documentary basis justifying the expenditure of LIHEAP funds. All material pertinent to a participant household will be retained for a permanent record. Each decision justifying a participant household is eligible or ineligible for LIHEAP benefits, must be supported by information in the permanent record showing that each eligibility requirement is met or that one (1) or more eligibility requirements are not met. (7-1-99)

101. ELIGIBLE ACTIVITIES.

Funds made available through the LIHEAP grant will be used as follows: (7-1-99)

01. Home Utility and Bulk Fuel Costs. These costs include those incurred by the eligible participant household for electricity, natural gas and bulk fuel for home energy needs, but does not include costs incurred for telephone, water, trash or sewer. (7-1-99)

02. Governor Declared Emergency or Disaster. A portion of the LIHEAP grant funds may be used for home heating supply shortages experienced by the participant household or a weather-related emergency which threatens the health or lives of an area's inhabitants such that the Governor declares a state of emergency. (3-15-02)

03. Catastrophic Illness Costs. Households with income exceeding eligibility guidelines may be eligible due to catastrophic illness. The household's unreimbursed medical expenses from the previous twelve (12) months are subtracted from the household's gross income for the same period. If the household then meets income guidelines, the Department makes a final eligibility determination. (3-30-01)

04. Low-Cost Residential Weatherization. Funds reserved for weatherization services to low-income households pursuant to Department of Energy, Weatherization Assistance Program Regulations, when in accordance with federal LIHEAP Regulations. (7-1-99)

102. PARTICIPANT RIGHTS.

The participant has rights protected by federal and state laws and Department rules. The Department or their designee must inform the participant of their rights during the application process and eligibility determination, as follows: (7-1-99)

01. Right to Apply. Any participant household wishing to apply must be given the opportunity, without delay, to apply for LIHEAP benefits. All participants must apply in writing. (7-1-99)

02. Right to a Hearing. Rules governing hearing rights are contained in Idaho Department of Health and Welfare Rules, IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." (3-30-01)

03. Civil Rights. The rights of participant households must be respected under the U.S. and Idaho Constitutions, the Social Security Act, Title VI of the Civil Rights Act of 1964, the Rehabilitation Act of 1973, and all other relevant provisions of federal and state law, including the avoidance of practices which violate a person's privacy or subjection to harassment. (7-1-99)

103. PARTICIPANT RESPONSIBILITIES.

Each participant applying for LIHEAP benefits must, to the extent permitted by their physical and mental condition, provide all necessary and reasonable verification to establish eligibility, and must otherwise cooperate in the eligibility determination process. (7-1-99)

104. RELATIONSHIP TO OTHER PROGRAMS.

LIHEAP benefits paid to eligible participant households must not be counted as income or resources for any purpose under any federal or state law, including any law relating to taxation, public assistance, or welfare programs. (7-1-99)

105. FORMS.

A participant household will apply on Department prescribed forms and designate a head of household. (3-30-07)

106. -- 149. (RESERVED).

150. ELIGIBILITY REQUIREMENTS AND COLLATERAL CONTACTS.

All participant households assisted through LIHEAP must provide proof of both financial eligibility requirements and non-financial eligibility requirements. (7-1-99)

01. Failing to Meet the Financial and Non-Financial Eligibility. Participant households failing to meet the financial and non-financial eligibility requirements will be denied LIHEAP assistance. (7-1-99)

02. Participant's Signature. A participant's signature on the application is their consent for the Department to contact collateral sources for verification of the eligibility requirement(s). (7-1-99)

151. INCOME ELIGIBILITY REQUIREMENTS.

Under 42 U.S.C. 8624(b)(2)(B)(ii), Assistance under this program is limited to participant households with countable income at or below sixty percent (60%) of Idaho's "State Median Income Estimate." State median income is defined in 42 USC 8622(11). The federal "State Median Income Estimate" for Idaho is found at http://www.acf.hhs.gov/programs/ocs/liheap/guidance/information_memoranda/im09-05.html. Participant households must provide proof of income for all members during the application process. (9-1-09)T

01. Income Not Counted. Income listed in Subsections 151.01.a. through 151.01.v. is not counted in determining LIHEAP eligibility or benefit level. All other income is counted in determining LIHEAP eligibility and benefit level. (3-15-02)

- a.** Benefit payments from Medicare Insurance. (4-5-00)
- b.** Private loans made to the participant or the household. (4-5-00)
- c.** Assets withdrawn from a personal bank account. (4-5-00)
- d.** Sale of real property, if the funds are reinvested within three (3) calendar months. (3-15-02)
- e.** Income tax refunds. (4-5-00)
- f.** Infrequent, irregular or unpredictable income from gifts or lottery winnings of less than thirty dollars (\$30) during the three (3) month period before application for LIHEAP. (4-5-00)
- g.** Wages or allowances for attendant care when the attendant resides in the household of the disabled member. (4-5-00)
- h.** Interest income of thirty dollars (\$30) or less received during the three (3) month period before application for LIHEAP. (4-5-00)
- i.** Legal fees or settlements from Workman's Compensation paid in a lump sum. (4-5-00)
- j.** Monies received for educational purposes from NSDL, College work-study programs, State Student Incentive grants, SEOG, Pell, Guaranteed Student Loans and Supplemental grants funded under Title IV, A-2. (3-15-02)
- k.** Monies from VA-GI Bill for Education. (4-5-00)
- l.** Department of Health and Welfare Adoption subsidies. (4-5-00)
- m.** Compensation provided volunteers in the Older American Act or Foster Grandparent Program, including Green Thumb and Vista volunteers, Title V Senior Employment Program. (4-5-00)
- n.** Third party payments made by a non-household member on behalf of the household. Third party payments include child care, energy assistance funds, shelter, food and clothing assistance. (4-5-00)

- o.** Value of food stamps or donated food to household. (4-5-00)
- p.** Utility allowance. (4-5-00)
- q.** TAFI lump sum payments. (3-15-02)
- r.** Tribal crop or land payments. (3-15-02)
- s.** AmeriCorps stipend. (3-15-02)
- t.** Child support income. (9-1-09)T

02. Income Received Monthly. To determine LIHEAP eligibility and benefit amount, when participant household income is received at least monthly, use the three (3) month's income prior to the date of application. (4-5-00)

03. Income Received Less Often Than Monthly. For household income received less often than monthly convert the income into a three (3) month amount: (4-5-00)

- a.** Multiply income received weekly by twelve and nine tenths (12.9). (4-5-00)
- b.** Multiply income received every two (2) weeks by six and forty-five hundredths (6.45). (4-5-00)
- c.** Multiply income received twice each month by six (6). (4-5-00)

04. Seasonal and Self-Employment Income. For households with seasonal or self-employment income divide the annual income by four (4). (4-5-00)

05. Treatment of Undocumented Resident Income. If a household includes eligible and ineligible undocumented resident participants, and one (1) or more of the ineligible participants had income during the reporting period, count the ineligible participants' income and exclude the undocumented resident from the household count. (3-15-02)

152. NONFINANCIAL ELIGIBILITY REQUIREMENTS.

For the purpose of assistance under LIHEAP, the participant household must meet the following non-financial eligibility requirements. (7-1-99)

01. Residence. At the time the application is completed, the participant must reside in the state of Idaho. LIHEAP benefits are not transferable to an out-of-state residence. (3-30-07)

02. Living Situations. The participant household must reside in housing where they are responsible for home energy costs and incur the costs either directly or as an undesignated portion of their rent. Living situations where residents are not responsible for energy costs include hospitals, nursing homes, shelter homes, commercial boarding homes, and rehabilitation centers. (3-30-07)

03. Native Americans. Native American households whose tribe has entered into a separate agreement with the federal funding agency and the Department to receive LIHEAP grant funds, are not entitled to benefits under this program unless: (7-1-99)

- a.** Tribal funds are not available. (7-1-99)
- b.** Funds are depleted and an emergency exists. (7-1-99)

04. Resident Status. At least one (1) household member must be a citizen or legal resident of the United States. As part of the application process, participants must sign a declaration, under penalty of perjury, attesting to the residency or citizenship status of all household members. (3-15-02)

153. -- 199. (RESERVED).

200. INTAKE PROCESS.

Low-income participants may complete an application for LIHEAP benefits at a CAA. The CAA will submit the participant household information contained on the application to the Department on-line computer system for issuance of eligibility notification. (7-1-99)

201. APPLICATION PROCESS.

A participant must be provided a prompt opportunity to complete an application for assistance. Application forms must contain a statement which clearly explains participant's civil and criminal liability for the truthfulness of the information included on the forms; and their right to a hearing according to Idaho Department of Health and Welfare Rules, IDAPA 16.05.03, "Rules Governing Contested Cases Proceedings and Declaratory Rulings." (7-1-99)

01. Date of Application. The participant application process begins the date the completed and signed application and all supporting forms are received by the CAA. (7-1-99)

02. Participant Representation. A participant household may be assisted by a person or persons of their choice and, when accompanied by such persons, may be represented by them. (7-1-99)

03. Signature. The application must be signed by the participant designated at the head of household, or their designee. (7-1-99)

a. Applications signed by a designee must have a letter of authorization or power of attorney from the participant included in the file. (3-15-02)

b. Employees of the CAA or the Department must not be designated to sign the application. (7-1-99)

04. Signature by Mark. A signature by mark requires two (2) witnesses. The signatures and addresses of the witnesses must appear on the application, followed by the word "witness." (7-1-99)

05. Assistance with Application. When completing the application forms or obtaining required documentation, each participant must be provided assistance from the CAA, including the provision for interpreters for participant households with limited or non-English speaking skills. (7-1-99)

202. APPLICATION TIME LIMITS AND DISPOSAL ACTIONS.

Unless circumstances beyond the control of the Department prohibit it, each application is to be acted upon within thirty (30) days from the date the application is completed and signed by the participant. An application for LIHEAP assistance must be disposed of by one (1) of the following three (3) methods: (7-1-99)

01. Approval. A determination the participant household is eligible for LIHEAP benefits. (7-1-99)

02. Denial. A determination the participant household is ineligible for LIHEAP benefits or that eligibility could not be determined due to lack of necessary information or verification. (7-1-99)

03. Withdrawal. The participant household voluntarily requests that no further consideration be given to their application or the participant becomes deceased. (7-1-99)

203. NOTIFICATION OF DECISION.

Each participant household must be notified, in writing, of the decision made with regard to their LIHEAP application for assistance. (7-1-99)

01. Approvals. At the time the application is completed, the participant household will receive a copy of their preliminary approval notification. The Department issuance of the benefit payment or denial notice will be the participant household's formal eligibility notification. (7-1-99)

02. Denials or Withdrawals. The LIHEAP Notice of Denial will be provided to participant

households denied assistance and include the reason for the denial and an explanation of the participant household's right to appeal the eligibility decision. (7-1-99)

204. BENEFIT DETERMINATION.

Eligible participant households will have their LIHEAP benefit determined as follows: (3-20-04)

01. Actual Consumption Method. The actual consumption method is used if the eligible participant household heats its residence with either natural gas or electricity and has resided in the residence for one (1) year or longer. Household benefit is calculated by multiplying the energy consumption cost by an annual benefit calculation factor. Annual minimum and maximum benefits per household are published each year in the Intake Manual used for LIHEAP. (3-20-04)

02. Average Annual Cost Method. The average annual cost method is used when the eligible participant household's actual consumption cost is unknown, or it uses a heating source other than electricity or natural gas. Average cost is determined by information provided by energy suppliers throughout the state and is published as the Annual Heating Cost Chart which is available from the Department of Health and Welfare. The average cost is specific to county of residence and the household's heating source. Household benefit is calculated by multiplying the Average Annual Cost by an annual benefit calculation factor. (3-20-04)

03. Annual Benefit Calculation Factor. Annual benefit calculation factors are determined each year based on the amount of federal funding for the upcoming program year. The particular factor used for a household's benefit calculation is determined by the household's energy cost burden (high, medium or low) expressed as a percentage of annualized income. A heating burden of zero percent (0%) to five percent (5%) is low, six percent (6%) to ten percent (10%) is medium, and eleven percent (11%) or greater is high. Benefit calculation methodology and the current benefit calculation factors are published in the Intake Manual used for LIHEAP, available at the Department or on its website, and at community action agencies. (3-30-07)

04. Adjusting LIHEAP Benefit. Households containing at least one (1) of the following may be eligible for an adjusted benefit. The adjusted benefit amounts and eligibility levels will be published annually in the Intake Manual used for LIHEAP, available at the Department or on its website, and at community action agencies. (3-30-07)

- a. Child under six (6) years of age. (4-5-00)
- b. Individual with disabilities as declared on the LIHEAP application form. (4-5-00)
- c. Individual sixty (60) years of age or older. (4-5-00)

205. METHOD OF PAYMENT.

There are three (3) methods for paying LIHEAP benefits to eligible participant households. Each payment is based on the source of the home energy and whether the energy cost is paid by the participant directly or indirectly. (7-1-99)

- 01. Direct Payment to Energy Supplier.** (7-1-99)
- 02. Two-Party Payment.** (7-1-99)
- 03. One-Party Payment.** (7-1-99)

206. -- 299. (RESERVED).

300. CONDITION OF PAYMENT ENDORSEMENT.

When an eligible participant household receives a LIHEAP benefit payment directly, they must endorse it and take it to their designated energy supplier. Two-party payments will have the name of the energy supplier imprinted on the face of the warrant. When an eligible participant and their energy supplier endorse the LIHEAP benefit payment, they certify that to the best of their knowledge, the funds are being used to provide home energy for the eligible participant household. (7-1-99)

301. VENDOR AGREEMENTS.

All participating energy suppliers must enter into a vendor agreement with the Department to provide home energy assistance to eligible participant households. (7-1-99)

302. OVERPAYMENTS.

All overpayments a participant household is not eligible to receive must be repaid to the Department. (7-1-99)

303. -- 994. (RESERVED).

995. PROVISIONS CONTINGENT UPON FEDERAL FUNDING.

The provisions in Sections 000 through 999 inclusive, are contingent upon availability and receipt of funds appropriated through federal legislation. When federal funds are not available to the state of Idaho, these provisions or any part therein shall be considered dormant and there may be no advance notice of termination or reduction of benefits may be disposed. In the event that additional funds are available a supplemental payment can be made, in an equitable manner, to each eligible household at the discretion of the Director. (7-1-99)

996. -- 999. (RESERVED).

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